

MINISTRY OF HEALTH AND
LOCAL GOVERNMENT.

LEGAL ASSISTANT.

THE STATUTES:

SECOND REVISED EDITION.

VOL. VIII.

FROM THE SESSION OF THE TENTH AND ELEVENTH
TO THE SESSION OF THE
FIFTEENTH AND SIXTEENTH YEARS OF QUEEN VICTORIA.
A.D. 1847—1852.

By Authority.

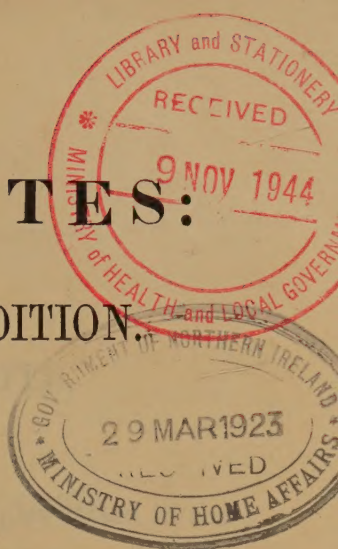


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INTRODUCTORY NOTE.

THIS volume is framed on the principles stated in the introductory notes to the preceding volumes.

The Chronological Table prefixed to this volume is restricted to giving reasons for total or partial omission of Acts, but without reference to sections. Reasons for the omission of whole sections are given in notes in the text. For fuller information showing the partial repeals of sections and other operations, such as extensions, amendments, &c., the reader is referred to the Chronological Table and the Index to the Statutes, which are published by Her Majesty's Stationery Office.

This volume has been edited by Mr. H. S. Theobald and Mr. Albert Gray.

December 1894.

ADDENDA TO PRECEDING VOLUMES.

To each of the following Acts :—

5 & 6 Will. 4. c. 27. (Vol. 5, p. 687),

3 & 4 Vict. c. 89. (Vol. 6, p. 531),

3 & 4 Vict. c. 91. (Vol. 6, p. 533),

4 & 5 Vict. c. 30. (Vol. 6, p. 719),

5 & 6 Vict. c. 68. (Vol. 6, p. 992),

7 & 8 Vict. c. 47. (Vol. 7, p. 242),

append the following footnote :—

“This Act has been continued annually by the Expiring Laws Continuance Acts.”

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Year, statute, and chapter.	Subject-matter.	Repeals and reason for total or partial omission.	Page.
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c. 8. -	Supply - - - - }		
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c. 12. -	Mutiny - - - - }	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	5
c. 13. -	Marine mutiny - - - - }		
c. 14. -	Markets and Fairs Clauses -		
c. 15. -	Gasworks Clauses - - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	20
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c. 23. -	Customs - - - -	Rep. 16 & 17 Vict. c. 107. s. 358.	
c. 24. -	Portland Breakwater - - - }	Local and personal.	
c. 25. -	Inclosures - - - - }		
c. 26. -	Land for prisons, Ireland -		

¹ No special reference is given in the third column of the Table to Acts which merely repeal words of enactment or commencement or expressions superseded by the Interpretation Act, 1889, or the Short Titles Act, 1892, or authorise the omission of preamble or recitals.

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c. 49.	Sale of beer, &c., on Sunday	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 50.	Regent's Quadrant Colonnade	Local and personal.	
c. 51.	Public Works, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 52.	Salmon fisheries	Rep. 24 & 25 Vict. c. 109. s. 39.	
c. 53.	Windsor approaches	Local and personal.	
c. 54.	Caledonian Canal		
c. 55.	Paymaster-General, &c.		
		Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	448
c. 56.	Canada Union Act	Rep. 41 & 42 Vict. c. 79. (S.L.R.)	
c. 57.	Exchange of Crown advowsons	Local and personal.	
c. 58.	Naval Medical Supplemental Fund Society.	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 59.	Juvenile offenders, Ireland	Rep. 13 & 14 Vict. c. 102. s. 60.	
c. 60.	Duties on spirits	Rep. 16 & 17 Vict. c. 107. s. 358.	
c. 61.	Diocese of Norwich	Local and Personal.	
c. 62.	Land Tax Commissioners		
c. 63.	Public Health	Rep. 38 & 39 Vict. c. 55. s. 343.	
c. 64.	Loan societies	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 65.	Militia ballots suspension		
c. 66.	Highway rates		
c. 67.	Ecclesiastical jurisdiction	Rep. 56 & 57 Vict. c. 53. s. 51.	
c. 68.	Trustees relief, Ireland		
c. 69.	Malicious injuries, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	450
c. 70.	Fines and recoveries	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 71.	Church Building Commission		
c. 72.	Irish constabulary		
		Rep. in part— 37 & 38 Vict. c. 80. s. 13. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	451
c. 73.	Turnpike Acts, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 74.	Registers of Sasines, Scotland	Rep. 55 & 56 Vict. c. 19. (S.L.R.)	
c. 75.	Militia pay	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 76.	Ecclesiastical Patronage, Ireland	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 77.	Insolvent Debtors Court	Rep. 32 & 33 Vict. c. 83. s. 20.	
c. 78.	Crown Cases reserved	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	457
c. 79.	Court of Justiciary, Scotland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	459
c. 80.	Tithe rentcharge, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	461
c. 81.	Steam navigation	Rep. 14 & 15 Vict. c. 79. s. 1.	
c. 82.	Poor law (schools)	Rep. in part, 54 & 55 Vict. c. 67. (S.L.R.)	461

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c. 83. -	Duchies of Cornwall and Lancaster: Stannaries Court, &c.	Rep. in part— 26 & 27 Vict. c. 49. s. 1. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 56 & 57 Vict. c. 61. s. 2. 57 & 58 Vict. c. 56. (S.L.R.)	462
c. 84. -	Chelsea and Greenwich out-pensioners, &c.	Rep. 30 & 31 Vict. c. 110. s. 20.	
c. 85. -	Poor rates - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 86. -	Bankrupts release - - - -	Rep. 12 & 13 Vict. c. 106. s. 1.	
c. 87. -	Payment of debts out of realty -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	464
c. 88. -	Post Office money orders - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	465
c. 89. -	Unlawful combinations, Ireland -	Rep. 54 & 55 Vict. c. 67. (S.L.R.)	
c. 90. -	Payment of rates and taxes by parliamentary electors.	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	467
c. 91. -	Poor law (audit) - - - *	Rep. in part— 29 & 30 Vict. c. 113. s. 5. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	467
c. 92. -	Inland fisheries, Ireland - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	471
c. 93. -	Incorporation of boroughs -	Rep. 45 & 46 Vict. c. 50. s. 5.	
c. 94. -	Court of Chancery offices - -	Rep. 37 & 38 Vict. c. 81. s. 12.	
c. 95. -	Wolverhampton parish - -	Local and personal.	
c. 96. -	Turnpike Acts Continuance -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 97. -	Sugar duties - - - -	Rep. 16 & 17 Vict. c. 167. s. 358.	
c. 98. -	Controverted elections - -	Rep. 31 & 32 Vict. c. 125. s. 54. (temp.)	
c. 99. -	Commons inclosure - - -	Rep. in part— 39 & 40 Vict. c. 20. (S.L.R.) s. 1. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	483
c. 100. -	Distillation of spirits from sugar, &c.	Rep. 23 & 24 Vict. c. 114, c. 202.	
c. 101. -	Lock-up houses - - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	489
c. 102. -	Metropolitan improvements -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	492
c. 103. -	Army prize money - - - -	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 104. -	Millbank Prison - - - -	Rep. 55 Vict. c. 1.	
c. 105. -	Importation of sheep - - -	Rep. 41 & 42 Vict. c. 74. s. 4.	
c. 106. -	Labouring poor, Ireland - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 107. -	Contagious disorders (sheep), &c. -	Rep. 41 & 42 Vict. c. 74. s. 4.	
c. 108. -	Diplomatic relations with see of Rome.	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
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c. 112. -	Metropolitan commissions of sewers	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 113. -	Dublin police - - - - -	Rep. in part— 16 & 17 Vict. c. 112. s. 1. 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	499
c. 114. -	Poor law auditors - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 115. -	Irish Reproductive Loan Fund - }		
c. 116. -	Slave trade - - - - -		
c. 117. -	Post Office - - - - -		
c. 118. -	Duties under Hackney Carriage Acts.	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	499
c. 119. -	Drainage and land improvement -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	500
c. 120. -	Transfer of land, Ireland - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	501
c. 121. -	Railway passengers duties - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	506
c. 122. -	British spirits - - - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	508
c. 123. -	Nuisances removal, &c. - -	Rep. 29 & 30 Vict. c. 90. s. 69.	
c. 124. -	London Bridge approaches - -	Local and personal.	
c. 125. -	National debt - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 126. -	Appropriation - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 127. -	Duties on copper and lead - }		
c. 128. -	Slave trade - - - - -	Rep. 36 & 37 Vict. c. 88. s. 30.	
c. 129. -	Local Acts, preliminary inquiries -	Rep. 14 & 15 Vict. c. 49. s. 1.	
c. 130. -	West Indian loans - - - - -	Rep. 54 & 55 Vict. c. 67. (S.L.R.)	
c. 131. -	Fever, Ireland - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 132. -	Supreme Court, Ireland - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	509
c. 133. -	Savings banks, Ireland - - -	Rep.— 26 & 27 Vict. c. 87. s. 1. 41 & 42 Vict. c. 79. (S.L.R.)	
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c. 2. -	Habeas corpus suspension, Ire-land.	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 6. -	Supply - - - - -		
c. 4. -	Poor law, Ireland - - - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	511
c. 5. -	Relief of distress, Ireland - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 6. -	Buckinghamshire assizes - -	Rep. 54 & 55 Vict. c. 67. (S.L.R.)	
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c. 9.	Indemnity - - - - -	Rep. 34 & 35 Vict. c. 48.	
c. 10.	Mutiny - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 11.	Larceny - - - - -	Rep. 24 & 25 Vict. c. 95. s. 1.	
c. 12.	Marine mutiny - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 13.	Poor law - - - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	512
c. 14.	Costs of distress for rates - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 47 & 48 Vict. c. 43. s. 4. 54 & 55 Vict. c. 67. (S.L.R.)	514
c. 15.	Recovery of wages, Ireland -	Rep. 13 & 14 Vict. c. 102. s. 60.	
c. 16.	Justices of the peace protection, Ireland.	Rep. in part— 16 & 17 Vict. c. 113. s. 3. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.) 56 & 57 Vict. c. 61. s. 2. 57 & 58 Vict. c. 56. (S.L.R.)	523
c. 17.	Spirits, Ireland - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 18.	Petty sessions - - - -	Rep. in part, 54 & 55 Vict. c. 67. (S.L.R.)	526
c. 19.	Prisoners removal, Ireland -	Rep. 24 & 25 Vict. c. 101. (S.L.R.)	
c. 20.	Exchequer bills - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 21.	Newfoundland - - - -	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 22.	Land grants, New South Wales -	Local and personal.	
c. 23.	Improvement of land, Ireland -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 24.	Rate in aid of distressed unions, Ireland.		
c. 25.	Portuguese deserters - - -	Rep. in part— 39 & 40 Vict. c. 20. (S.L.R.) s. 2. 54 & 55 Vict. c. 67. (S.L.R.)	528
c. 26.	Leases under powers - - -	Rep. in part— 13 & 14 Vict. c. 17. s. 1. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	529
c. 27.	Transportation - - - -	Rep. in part, 54 & 55 Vict. c. 67. (S.L.R.)	531
c. 28.	Greenwich markets - - -	Local and personal.	
c. 29.	Navigation - - - - -	Rep. 17 & 18 Vict. c. 120. s. 4.	
c. 30.	Sheep stealers, Ireland - -	Rep. 13 & 14 Vict. c. 102. s. 60.	
c. 31.	Turpike roads, Scotland - -	Rep. 54 & 55 Vict. c. 67. (S.L.R.)	
c. 32.	Grand jury cess, Ireland -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 33.	Merchant vessels - - - -	Rep. 15 & 16 Vict. c. 44. s. 1.	
c. 34.	Small debt courts, Scotland -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	531
c. 35.	Highways returns - - - -	Rep. 42 & 43 Vict. c. 39. s. 3.	
c. 36.	County cess, Ireland - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 37.	Loan societies - - - - -		
c. 38.	Assaults, Ireland - - - -		
c. 39.	Ecclesiastical jurisdiction -		
c. 40.	Soap duties allowances - -	Rep. 33 & 34 Vict. c. 10. s. 20.	
c. 41.	Coin - - - - -		
c. 42.	Sheriff of Westmoreland - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
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c. 45.	Quarter sessions, England - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 47 & 48 Vict. c. 43. s. 4. 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	
c. 46.	Union of turnpike trusts - - -	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 47.	Turnpike Acts, Ireland - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 48.	Vancouver's Island - - -	Rep. in part— 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 49.	Sites for schools - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	538
c. 50.	Sewers - - - - -	Rep. in part, 54 & 55 Vict. c. 67. (S.L.R.)	539
c. 51.	Pupils protection, Scotland - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	541
c. 52.	Militia ballots suspension - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	544
c. 53.	Solicitors, Ireland - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 39 & 40 Vict. c. 44. s. 2. 54 & 55 Vict. c. 67. (S.L.R.)	
c. 54.	Highway rates - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 55.	Newgate Gaol, Dublin, &c. - - -	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 56.	Lunatic asylums, Ireland - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 57.	Inclusures - - - - -	Local and personal.	554
c. 58.	Inland Revenue officers - - -		
c. 59.	Improvement of land, Ireland - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	
c. 60.	Poor, Ireland - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 61.	Poor rates - - - - -		
c. 62.	Midland Great Western Railway of Ireland.		
c. 63.	Relief of Distress, Ireland - - -	Local and personal.	559
c. 64.	Poor Law, England - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.) 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 65.	County rates within boroughs - -	Rep. 45 & 46 Vict. c. 50. s. 5.	
c. 66.	Colonial posts - - - - -	Rep. in part— 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	561
c. 67.	Sequestration of benefices - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	563
c. 68.	Foreign Marriages - - - - -	Rep. 55 & 56 Vict. c. 23. s. 26.	564
c. 69.	Indictable Offences, Ireland - - -	Rep. 14 & 15 Vict. c. 93. s. 43.	
c. 70.	Summary convictions, Ireland - -	Rep. 24 & 25 Vict. c. 101.	
c. 71.	Regimental benefit societies - - -	Rep. 22 & 23 Vict. c. 20. s. 1.	
c. 72.	House of Commons Officers - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 56 Vict. c. 67. (S.L.R.)	
c. 73.	Army Enlistment - - - - -	Rep. 30 & 31 Vict. c. 34. s. 8.	
c. 74.	Trustees relief - - - - -	Rep. 56 & 57 Vict. c. 53. s. 51.	564
c. 75.	Militia pay - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 76.	Offences against women - - -	Rep. 54 & 55 Vict. c. 67. (S.L.R.)	

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c. 78. -	Taxation of costs, House of Lords -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	
c. 79. -	New Zealand Company -	Rep. 57 & 48 Vict. c. 56. (S.L.R.)	
c. 80. -	Stamps -	Rep. 53 Vict. c. 8.	
c. 81. -	New Forest and Waltham Forest -	Local and personal.	570
c. 82. -	Boroughs, relief from county expenditure.	Rep.— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 83. -	Inclosure of commons -	Rep. in part— 39 & 40 Vict. c. 20. s. 1. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 84. -	Slave trade -	Rep. 36 & 37 Vict. c. 88. s. 30.	
c. 85. -	Borough of Dublin -	Rep. in part, 57 & 58 Vict. c. 56. (S.L.R.)	574
c. 86. -	Workhouses, Ireland -	Rep. 38 & 39 Vict. c. 89. s. 57.	
c. 87. -	Turnpike roads, England -	Rep. in part, 38 & 39 Vict. c. 66. (S.L.R.)	
c. 88. -	Pilotage -	Residue local and personal.	
c. 89. -	Treasury, signature of instruments	Rep. 17 & 18 Vict. c. 120. s. 4. Rep. in part, 54 & 55 Vict. c. 67. (S.L.R.)	580
c. 90. -	Customs -	Rep. in part— 16 & 17 Vict. c. 107. s. 358. 38 & 39 Vict. c. 66. (S.L.R.) 57 & 58 Vict. c. clxxxvii. s. 4.	
c. 91. -	Rates, Dublin -	Rep. in part— 34 & 35 Vict. c. 65. s. 4. 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	
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c. 93. -	Metropolitan sewers -	Rep. 24 & 25 Vict. c. 101. (S.L.R.)	581
c. 94. -	Provisional orders -	Rep. in part, 38 & 39 Vict. c. 55. s. 343.	
c. 95. -	Judgments, Ireland -	Residue local and personal. Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	
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c. 97. -	City of Dublin -	Rep. in part, 56 & 57 Vict. c. 14. (S.L.R.)	588
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c. 101.	County Courts	Rep. 51 & 52 Vict. c. 43. s. 188.	
c. 102.	Royal Pavilion, Brighton, &c.	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 103.	Poor Law, England	Rep. in part— 16 & 17 Vict. c. 97. s. 102. 38 & 39 Vict. c. 66. (S.L.R.) 42 & 43 Vict. c. 6. s. 11. 54 & 55 Vict. c. 67. (S.L.R.)	
c. 104.	Poor, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	596
c. 105.	Leaseholds, conversion, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	605
c. 106.	Bankruptcy, England	Rep. 32 & 33 Vict. c. 83. s. 20.	625
c. 107.	Bankruptcy, Ireland	Rep. 20 & 21 Vict. c. 60. s. 2.	
c. 108.	Joint stock companies	Rep. 25 & 26 Vict. c. 89. s. 205.	
c. 109.	Petty Bag Office, &c.	Rep. in part, 56 & 57 Vict. c. 54. (S.L.R.)	
c. 110.	Defects in leases	Rep. in part, 54 & 55 Vict. c. 67. (S.L.R.)	626
c. 111.	Nuisances removal, &c.	Rep. 29 & 30 Vict. c. 90. s. 69.	
13 & 14 Vict. (1850).			
c. 1.	County cess, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	627
c. 2.	Party processions, Ireland	Rep. 35 & 36 Vict. c. 22.	
c. 3.	Supply	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 4.	Bridges, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 5.	Mutiny	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	629
c. 6.	Marine mutiny	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	
c. 7.	Hackney carriages, London	Local and personal.	
c. 8.	Inclosures	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 9.	Brick duties repeal	Rep. 31 & 32 Vict. c. 122. s. 11.	630
c. 10.	Exchequer bills	Rep. 34 & 35 Vict. c. 48.	
c. 11.	School districts	Rep. 31 & 32 Vict. c. 101. s. 4.	
c. 12.	Indemnity	Rep. 24 & 25 Vict. c. 101. (S.L.R.)	
c. 13.	Religious congregations, &c., Scotland.	Rep. 52 & 53 Vict. c. 33. s. 2.	631
c. 14.	Distressed unions, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 15.	West Indian courts of appeal	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 16.	Supreme court, England	Rep. 55 & 56 Vict. c. 19. (S.L.R.)	
c. 17.	Leases under powers	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	631
c. 18.	Supreme court, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
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c. 20.	Parish constables		

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c. 21.	Interpretation of Acts - - -	Rep. 52 & 53 Vict. c. 63. s. 41.	
c. 22.	Exchequer bills - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 23.	Fairs and markets - - -		
c. 24.	Greenwich Hospital - - -		
c. 25.	Justices of assize - - -		
c. 26.	Piracy - - -	Rep. in part—	632
		38 & 39 Vict. c. 66. (S.L.R.)	
		54 & 55 Vict. c. 67. (S.L.R.)	
c. 27.	Piracy - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 28.	Charitable Trust. Appointment of trustees.	Rep. in part—	634
		38 & 39 Vict. c. 66. (S.L.R.)	
		54 & 55 Vict. c. 67. (S.L.R.)	
c. 29.	Judgments, Ireland - - -	Rep. in part—	637
		38 & 39 Vict. c. 66. (S.L.R.)	
		54 & 55 Vict. c. 67. (S.L.R.)	
		57 & 58 Vict. c. 56. (S.L.R.)	
c. 30.	Sheriff of Westmoreland - - -	Rep. 50 & 51 Vict. c. 55. s. 39.	
c. 31.	Land improvement - - -	Rep. in part—	642
		38 & 39 Vict. c. 66. (S.L.R.)	
		54 & 55 Vict. c. 67. (S.L.R.)	
		57 & 58 Vict. c. 56. (S.L.R.)	
c. 32.	Provisional orders confirmation -	Local and personal.	
c. 33.	Police, Scotland - - -	Rep. 55 & 56 Vict. c. 55. s. 6. (but <i>see</i> terms).	
c. 34.	Turnpike Acts, Ireland, continuance	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 35.	Court of Chancery, England - -	Rep. 46 & 47 Vict. c. 49. s. 3.	
c. 36.	Court of Session, Scotland - -	Rep. in part—	645
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		54 & 55 Vict. c. 67. (S.L.R.)	
		55 & 56 Vict. c. 19. (S.L.R.)	
		57 & 58 Vict. c. 56. (S.L.R.)	
c. 37.	Larceny - - -	Rep. 55 & 56 Vict. c. 19. (S.L.R.)	
c. 38.	Marriages, confirmation - - -	Rep. in part, 38 & 39 Vict. c. 66. (S.L.R.)	
c. 39.	Convict prisons - - -	Residue local and personal.	657
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		38 & 39 Vict. c. 66. (S.L.R.)	
		55 Vict. c. 1.	
c. 40.	Naval prize - - -	Rep. 27 & 28 Vict. c. 23. s. 1.	
c. 41.	Division of parish of Manchester -	Local and personal.	
c. 42.	Incorporation of boroughs - - -	Rep. 45 & 46 Vict. c. 50. s. 5.	
c. 43.	Court of Chancery of the County Palatine of Lancaster.	Rep. in part—	658
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c. 44.	Census, Ireland - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 45.	Loan societies - - -		
c. 46.	Militia ballots suspension - - -		
c. 47.	Ecclesiastical jurisdiction - - -		
c. 48.	Linen, &c. manufactures, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 49.	Militia pay - - -		
c. 50.	Poor rates - - -		
c. 51.	Exchequer equitable jurisdiction, Ireland.		
c. 52.	Metropolitan interments - - -	Rep. 15 & 16 Vict. c. 85. s. 1.	
c. 53.	Census, Great Britain - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 54.	Factories - - -	Rep. 41 & 42 Vict. c. 16. s. 107.	
c. 55.	Corporation of Dublin - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
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c. 57. -	Vestry meetings - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 56 & 57 Vict. c. 73. s. 89.	670
c. 58. -	Highway rates - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 59. -	Australian constitutions - -	Rep. in part— 18 & 19 Vict. c. 54. s. 2. 18 & 19 Vict. c. 55. s. 2. 41 & 42 Vict. c. 79. (S.L.R.) 53 & 54 Vict. c. 26. s. 2. 56 & 57 Vict. c. 54. (S.L.R.) <i>See also</i> Colonial laws.	675
c. 60. -	Trustee Act, 1850 - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 56 & 57 Vict. c. 53. s. 51. 57 & 58 Vict. c. 56. (S.L.R.)	682
c. 61. -	County Courts Act, 1850 - -	Rep. 51 & 52 Vict. c. 43. s. 188.	
c. 62. -	Navy pay - - -	Rep. 28 & 29 Vict. c. 112. s. 1.	
c. 63. -	Equivalent Company - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 64. -	Bridges - - -	Rep. 45 & 46 Vict. c. 50. s. 5.	
c. 65. -	Public libraries, &c. - - -	Rep. 18 & 19 Vict. c. 70. s. 1.	
c. 66. -	Inclosures - - -	Local and personal.	
c. 67. -	Brewers' licences - - -	Rep. in part— 37 & 38 Vict. c. 16. s. 21. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	689
c. 68. -	Elections, Ireland - - -	Rep. in part— 35 & 36 Vict. c. 33. s. 32. (temp.) 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	689
c. 69. -	Parliamentary voters, Ireland, &c. -	Rep. in part— 31 & 32 Vict. c. 49. s. 19. 35 & 36 Vict. c. 33. s. 32. (temp.) 38 & 39 Vict. c. 66. (S.L.R.) 48 & 49 Vict. c. 3. s. 12. 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	693
c. 70. -	New Zealand - - -	Local and personal.	
c. 71. -	Sheep and cattle diseases prevention	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 72. -	Registration of assurances, Ireland	Reserved for supplementary volume.	
		Rep. in part— 24 & 25 Vict. c. 95. s. 1. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 73. -	Attachment of goods, Ireland -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	732
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c. 76. -	Division of deanery of St. Burian	Local and personal.	
c. 77. -	Annuities to Duke and Princess Mary of Cambridge.		
c. 78. -	Marlborough House settlement -	Rep. 57 & 58 Vict. c. 56. (S.L.R.) Rep. 38 & 39 Vict. c. 66. (S.L.R.) Rep. in part, 57 & 78 Vict. c. 56. (S.L.R.)	737
c. 79. -	Turnpike Roads, England -		
c. 80. -	Repeal of part of 15 Geo. 3. c. 31 -		
c. 81. -	Borough of Dublin - - -		
c. 82. -	Grand Jury Cess, Ireland - - -		
c. 83. -	Abandonment of railways -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	738
c. 84. -	Manchester Bonding Act - -	Rep. in part— 32 & 33 Vict. c. 114. s. 10. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	739
c. 85. -	Assizes, Ireland - - -	Rep. 57 & 58 Vict. c. 56. (S.L.R.) Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	750
c. 86. -	National Gallery, Edinburgh	Local and personal.	753
c. 87. -	Police superannuation fund -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 88. -	Fisheries, Ireland - - -	Rep. in part— 26 & 27 Vict. c. 114. s. 20. 29 & 30 Vict. c. 88. s. 6. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.) 56 & 57 Vict. c. 14. (S.L.R.)	
c. 89. -	Court of Chancery, Ireland -	Rep. in part— 30 & 31 Vict. c. 44. s. 52. 38 & 39 Vict. c. 66. (S.L.R.) 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	
c. 90. -	Provisional orders - - -	Rep. in part, 38 & 39 Vict. c. 55. s. 343.	
c. 91. -	Borough Justices - - -	Residue local and personal.	770
c. 92. -	Cruelty to animals, Scotland -	Rep. 54 & 55 Vict. c. 67. (S.L.R.) Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 41 & 42 Vict. c. 79. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	
c. 93. -	Mercantile marine - - -	Rep. 17 & 18 Vict. c. 120. s. 4.	
c. 94. -	Ecclesiastical Commissioners -	Rep. in part— 23 & 24 Vict. c. 124. s. 1. 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	773
c. 95. -	Customs - - - - -	Rep.— in part, 16 & 17 Vict. c. 107. s. 358. residue, 17 & 18 Vict. c. 120. s. 4.	
c. 96. -	Assessed taxes composition -	Rep. 32 & 33 Vict. c. 14. s. 39.	781
c. 97. -	Stamp duties - - - -	Rep. in part— 33 & 34 Vict. c. 99. 54 & 55 Vict. c. 67. (S.L.R.)	

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c. 98.	Benefices	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	782
c. 99.	Rating of small tenements	S. 1. local and personal. Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 100.	Coal mines inspection	Rep. 18 & 19 Vict. c. 108. s. 1.	
c. 101.	Poor Law, England	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 45 & 46 Vict. c. 50. s. 5. 54 & 55 Vict. c. 67. (S.L.R.)	784
c. 102.	Summary jurisdiction, Ireland	Rep. 14 & 15 Vict. c. 92. s. 26.	
c. 103.	London Bridge approaches	Local and personal.	
c. 104.	Copyright of designs	Rep. 46 & 47 Vict. c. 57. s. 113.	
c. 105.	Union of liberties with counties	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 54 & 55 Vict. c. 67. (S.L.R.)	787
c. 106.	Crime and outrage, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 107.	Appropriation		
c. 108.	Provisional orders	Local and personal.	
c. 109.	Spitalfields improvement		
c. 110.	Savings banks, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 111.	Holyhead Harbour	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 112.	Lough Corrib Improvement Company.	Local and personal.	
c. 113.	Improvement of land, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 114.	Stamp duties, Ireland	Rep. 55 & 56 Vict. c. 19. (S.L.R.)	
c. 115.	Friendly societies	Rep. 18 & 19 Vict. c. 63. s. 1; but see 17 & 18 Vict. c. 56. s. 2.	
c. 116.	Portland Harbour	Local and personal.	
14 & 15 Vict. (1851).			
c. 1.	Passengers by sea	Rep. 15 & 16 Vict. c. 44. s. 1.	
c. 2.	Inclosures	Local and personal.	
c. 3.	Supply		
c. 4.	Appointment of Vice Chancellor	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 5.	Marine mutiny		
c. 6.	Mutiny		
c. 7.	Erection of mills, Ireland	Rep. in part, 55 & 56 Vict. c. 19. (S.L.R.)	791
c. 8.	Protection of inventions	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 9.	Exchequer bills		
c. 10.	Indemnity	Rep. 34 & 35 Vict. c. 48.	
c. 11.	Apprentices and Servants	Rep. in part, 24 & 25 Vict. c. 95. s. 1.	792
c. 12.	Income tax, &c.	Rep. in part, 38 & 39 Vict. c. 66. (S.L.R.)	794
c. 13.	Sale of arsenic		794
c. 14.	Registration of compound house-holders, &c.		796
c. 15.	Chancery, Ireland	Rep. 19 & 20 Vict. c. 92. s. 21.	
c. 16.	Highways, South Wales	Rep. 23 & 24 Vict. c. 68. s. 1.	
c. 17.	Common Law Courts, Ireland	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 18.	Stamps		
c. 19.	Aggravated assaults, &c.	Rep. in part— 24 & 25 Vict. c. 95. s. 1. 38 & 39 Vict. c. 66. (S.L.R.)	797
c. 20.	Fee-farm rents, &c. Ireland	Rep. in part, 55 & 56 Vict. c. 19. (S.L.R.)	798
c. 21.	Bridges, Ireland	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	799
c. 22.	Survey, Great Britain	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	

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c. 24. -	School sites - - -	- - - - -	801
c. 25. -	Landlord and tenant - - -	- - - - -	801
c. 26. -	British white herring fishery -	Rep. in part— 31 & 32 Vict. c. 45. s. 71. 55 & 56 Vict. c. 19. (S.L.R.)	803
c. 27. -	Prisons, Scotland - - -	Rep. 23 & 24 Vict. c. 105. s. 1.	
c. 28. -	Common lodging houses - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 41 & 42 Vict. c. 52. s. 294. 55 & 56 Vict. c. 19. (S.L.R.) 56 & 57 Vict. c. 14. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	805
c. 29. -	Ecclesiastical jurisdiction - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 30. -	Highway rates - - -		
c. 31. -	Loan societies - - -		
c. 32. -	Militia ballots suspension - - -		
c. 33. -	Assessed taxes - - -		
c. 34. -	Lodging houses - - -	Rep. 32 & 33 Vict. c. 14. s. 39. Rep. 53 & 54 Vict. c. 70. s. 102.	
c. 35. -	Merchant shipping, apprentices -	Rep. in part, 17 & 18 Vict. c. 120. s. 4.	807
c. 36. -	Inhabited house duty - - -	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	808
c. 37. -	Turnpike Acts, continuance - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 38. -	Turnpike trusts - - -	Rep. 57 & 58 Vict. c. 56. (S.L.R.)	
c. 39. -	Rating of small tenements - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 40. -	Marriages, India - - -		
c. 41. -	Salary of Chief Justice - - -		
c. 42. -	Woods and Forests, Works and Buildings.	Rep. in part— 29 & 30 Vict. c. 39. s. 46. 38 & 39 Vict. c. 66. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	810
c. 43. -	Hainault Forest - - -	Local and personal.	
c. 44. -	Turnpike Acts, Ireland, con- tinuance - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 45. -	Lunatic asylums, Ireland - - -		
c. 46. -	Victoria Park, Crown copyholds -	Rep. in part— 55 & 56 Vict. c. 19. (S.L.R.) Sects. 1, 2, local and personal.	821
c. 47. -	Poor rates - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 48. -	Unlawful oaths, Ireland - - -		
c. 49. -	Preliminary inquiries on applica- tions for local Acts affecting tidal lands, navigation, &c.		822
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c. 51. -	Loans for public works in Ireland -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 52. -	Arrests of debtors - - -	Rep. 32 & 33 Vict. c. 83. s. 20.	
c. 53. -	Copyhold and Inclosure Com- missions.	Rep. in part, 52 & 53 Vict. c. 30. s. 13.	824
c. 54. -	Inclosures - - -	Local and personal.	
c. 55. -	Costs of prosecutions, &c. - - -	Rep. in part— 37 & 38 Vict. c. 7. s. 5. 38 & 39 Vict. c. 66. (S.L.R.) 40 & 41 Vict. c. 43. s. 10. 55 & 57 Vict. c. 19. (S.L.R.)	825

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c. 57. -	Civil bill courts, Ireland	Rep. in part— 16 & 17 Vict. c. 113. s. 3. 20 & 21 Vict. c. 60. s. 2. 23 & 24 Vict. c. 154. s. 104. 27 & 28 Vict. c. 99. ss. 56, 60. 38 & 39 Vict. c. 66. (S.L.R.) 40 & 41 Vict. c. 56. s. 6. 41 & 42 Vict. c. 79. (S.L.R.) 45 & 46 Vict. c. 29. s. 9. 55 & 56 Vict. c. 19. (S.L.R.) 56 & 57 Vict. c. 14. (S.L.R.) 57 & 58 Vict. c. 56. (S.L.R.)	832
c. 58. -	Militia pay - - - - }	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 59. -	Soap duties allowances - - - }		
c. 60. -	Ecclesiastical titles - - - - }	Rep. 34 & 35 Vict. c. 53.	
c. 61. -	Smithfield Market - - - - }	Rep. 20 & 21 Vict. c. cxxxv. s. 1.	
c. 62. -	Customs - - - - -	Rep. 16 & 17 Vict. c. 107. s. 358.	
c. 63. -	Canada and New Brunswick boundaries.	- - - - -	880
c. 64. -	Commissioners of Railways -	Rep. in part, 38 & 39 Vict. c. 66. (S.L.R.)	881
c. 65. -	Grand jury cess, Dublin, Wicklow-	Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 41 & 42 Vict. c. 79. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	882
c. 66. -	Highland roads and bridges -	Rep. 55 & 56 Vict. c. 19. (S.L.R.)	
c. 67. -	Storage of gunpowder in River Mersey. }	Rep. in part, 38 & 39 Vict. c. 66. (S.L.R.)	
c. 68. -	Poor law, Ireland - - - - }	Residue local and personal. Rep. in part— 38 & 39 Vict. c. 66. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	882
c. 69. -	Sheep, &c. diseases - - - - }	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 70. -	Lands Clauses, Ireland - - -	Rep. in part— 23 & 24 Vict. c. 97. s. 2. 38 & 39 Vict. c. 66. (S.L.R.) 55 & 56 Vict. c. 19. (S.L.R.)	887
c. 71. -	Church of Ireland Acts repeal -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 72. -	Erection of churches, &c., Ireland		
c. 73. -	Ecclesiastical residences, Ireland		
c. 74. -	Valuation of ecclesiastical property, Ireland, &c. }	Local and personal.	
c. 75. -	Metropolitan sewers - - - - }	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 76. -	New Forest - - - - -	Rep. in part— 16 & 17 Vict. c. 19. s. 1. 29 & 30 Vict. c. 62. s. 4.	
c. 77. -	Battersea Park - - - - -	Residue local and personal. Rep. in part, 38 & 39 Vict. c. 66. (S.L.R.)	
c. 78. -	Coalwhippers, London - - - - }	Residue local and personal.	
c. 79. -	Steam navigation - - - - -	Rep. 38 & 39 Vict. c. 66. (S.L.R.)	
c. 80. -	Great Yarmouth, provisional order	Rep. 17 & 18 Vict. c. 120. s. 4.	
c. 81. -	Lunatic, India - - - - -	Local and personal.	
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STATUTES OF QUEEN VICTORIA.

10 & 11 VICTORIA. A.D. 1847.

CHAPTER IV.

AN ACT for abolishing Poundage on Chelsea Pensions.

[23rd February 1847.]

[*Preamble.*]

[1.] . . . All out-pensions of Chelsea Hospital shall be paid free from any charge or deduction whatever on account of poundage, and all such out-pensions shall continue to be paid in advance, either quarterly, monthly, or weekly, as the Secretary at War for the time being shall consider most expedient for the interest of the said pensioners and the advantage of the public.

Out-pensions of Chelsea Hospital to be paid free from deduction on account of poundage, &c.

[*S. 2 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XI.

AN ACT to explain and amend the Act authorising the advance of Money for the Improvement of Land by Drainage in Great Britain.[¹]

[30th March 1847.]

[*Preamble recites 9 & 10 Vict. c. 101.*]

[1.] The expences herein-after mentioned shall be deemed to be and may be included among the expences of works of drainage in respect of which advances may be made under the provisions of the said Act; (that is to say,)

Certain expences to be deemed expences of works of drainage for which advances may be made under recited Act.

The expence of making or improving and securing, from or for the benefit of the land proposed to be improved by drainage, an outfall through other land, or such part as the commissioners may think reasonable of the expence of making or improving and securing such outfall for the benefit of the land in respect of which the advance may be applied for, and of other land :

The expence of making open drains and watercourses, including such open drains and watercourses as may need frequent repair, where reasonable security for their maintenance shall appear to the commissioners to be afforded by the

[¹ Short title, "The Public Money Drainage Act, 1847." See 55 & 56 Vict. c. 10.]

interests or liabilities of the tenants and occupiers of the land :

And the expence of fencing, trenching, and clearing the surface of land to be drained, for the purpose of converting the same from waste or pasture into arable or tillage land, where such fencing, trenching, and clearing respectively shall appear to the commissioners to be necessary to secure and render productive the proposed improvement by drainage :

Provided that it shall appear to the commissioners that in all the cases aforesaid the works will effect an improvement in the yearly value of the land which will exceed the utmost yearly amount which can be charged thereon under the said Act in respect of the advance applied for.

Assistant commissioner, &c. instead of examining plans, &c. and annexing them to report, may embody in his report particulars as to lands to be drained, &c. and report may be referred to instead of plans, &c.

2. Where by the said Act the plan, estimate, and specification, of the proposed drainage is required to be inspected or examined by and to be annexed to the report of the assistant commissioner or surveyor or engineer, it shall be sufficient for the assistant commissioner, or surveyor or engineer, unless the commissioners shall otherwise direct, to inquire into and to embody in his report such particulars of the land proposed to be drained, and of the proposed or any other manner of effecting the drainage thereof, and of the estimated expences of such drainage, as shall appear to him necessary and sufficient to enable the commissioners to judge of the expediency of an advance in respect of the proposed works ; and where in the provisional certificate, or in any subsequent proceedings, reference is by the said Act required to be made to the plan and specification annexed to such report, reference may be made thereto, or to the said report, as circumstances may require.

Withdrawal or reduction of applications before issue of provisional certificate.

3. All parties who shall have made applications for advances under the said Act may at any time, before provisional certificates shall have been issued thereon respectively, by writing addressed to the commissioners withdraw or reduce the amount of the advances for which their several applications are made ; and the commissioners may deal with any application for such reduced advance in the same manner in all respects as if the advance for which such application is made had been originally limited to the amount to which the same shall be so reduced.

Substitution of applications in respect of other lands.

4. Provided always, that any party who shall withdraw an application or reduce the amount of the advance for which his application may have been made, under the provision hereinbefore contained, may at the time of such withdrawal or reduction substitute for the application so withdrawn an application for an advance for the drainage of any of his lands not comprised in his previous application ; and if the advance applied for by such substituted application do not exceed the advance for which the application so withdrawn may have been made, or (in the case of such reduction as aforesaid) do not exceed the amount

withdrawn by reduction from the advance for which the previous application may have been made; the commissioners may, in dealing with such substituted application, give the same the benefit (if any) in respect of priority to which they might have deemed it entitled if it had been made at the same time, and instead, in whole or in part, of the previous application: Provided always, that every such substituted application shall, in respect to the notice required to be given by advertisement, and all inquiries and proceedings to be had thereupon, except as aforesaid, be dealt with as an original application.

5. Where separate applications shall have been made by the same owner for several advances for the drainage of several lands, or where successive applications shall have been made for an advance and a further advance for works of drainage on the same lands, it shall be lawful for the commissioners (with the consent of the owner for the time being of such lands or land) by their provisional certificate, or by any other writing under their seal, to declare such several applications to be consolidated and treated as one application, and thenceforth the proceedings and the provisional certificate, and the certificates respectively which shall be had and issued upon such consolidated application, shall be had, framed, and issued respectively in the same manner, and shall have the same force and effect in all respects, as if the aggregate amount of the advances applied for by the several applications had been applied for, and, in the case of several lands and works, as if such several lands and works had been all mentioned and included, in one application: Provided always, that where such separate applications as aforesaid shall have been made for advances for the drainage of several lands, such applications shall not be consolidated without the like notice by advertisement of the proposed consolidation as by the said recited Act is required in respect of an application for an advance; and where such notice by advertisement shall be given, any person who would have been authorized to dissent from an application for an aggregate advance in respect of the lands comprised in such several applications may dissent from such proposed consolidation, and the provisions of the said recited Act in relation to dissents shall be applicable to dissents from a proposed consolidation.

Consolidation
of applications
by same
owner

[*S. 6 rep. 19 & 20 Vict. c. 19, s. 3.*]

7. No provisional certificate shall be issued under the said Act unless it shall be shown to the satisfaction of the commissioners, or security be given to their satisfaction by the party applying for the advance, that the works for which the advance is to be made may be completed within five years from the date of the certificate; and the commissioners shall annex to every provisional certificate to be issued under the authority of the said Act a provision that all works in respect of which they shall certify their opinion that an advance should be made shall be

Time for
completion of
works, &c.

completed within five years as aforesaid [¹ and no provisional certificate shall be issued upon any application or applications by the same owner for any larger sum than ten thousand pounds]. Provided always, that in case it shall be shown to the satisfaction of the commissioners, or security be given to their satisfaction by the party applying for the advance, that the works for which the advance is to be made may be completed within three years from the date of the certificate, and that it shall also appear to the satisfaction of the commissioners that such works are to be executed within any district in Scotland in which distress prevails, and that such works may be executed by the labour of the inhabitants of such district, it shall and may be lawful for the said commissioners in such case, on the application of any owner, and with the sanction of the Treasury, to issue a provisional certificate or provisional certificates for such larger sum or sums as they in their discretion shall see fit, subject to a provision to be annexed to such last-mentioned certificate that such works shall be completed within the said period of three years.

Form of certificates, &c. and their effect.

8. Certificates and provisional certificates under the said Act may respectively be made in such form as the commissioners shall think fit; and every such certificate and provisional certificate respectively, when sealed with the seal of the commissioners, shall for all purposes be conclusive evidence that all the applications and acts whatsoever which ought to have been made and done previously to the issuing thereof have been made and done by the persons authorized to make and do the same, and that an advance may be issued by virtue of such certificate, and that the land shall become charged in respect of such advance; and no such certificate or provisional certificate shall be impeached by reason of any omission or mistake therein.

Provisional certificate may be assigned as a security to parties advancing money for execution of works.

9. Any owner of land to whom a provisional certificate shall have been issued under the said Act, or any subsequent owner of such land, may assign such provisional certificate, by way of security, to any person who may have advanced or may agree to advance monies for the execution of the works therein mentioned, and such assignment may be made by an endorsement on the provisional certificate in the form set forth in the schedule to this Act; and such assignee shall be entitled to claim and receive upon and in respect of such provisional certificate such advances as the owner by whom the assignment shall have been made might have claimed and received in case such assignment had not been made, subject nevertheless to the right of the owner as against such assignee to an account of the advances so received, or of so much thereof as shall not be owing on his security; and, subject to the rights of assignees as aforesaid, each advance shall be made to the owner by whom the works in respect of which an advance may be made shall appear to the commissioners to have been executed, and who shall have been named in the certificate accordingly, or to the legal personal

[¹ Words in brackets rep. 13 & 14 Vict. c. 31. s. 5, which makes other provisions.]

representative of such owner; and where an aggregate advance shall be made in respect of works which shall have been in part executed by an owner whose ownership shall have ceased, and in part by a subsequent owner, the advance shall be apportioned by the commissioners between the owners in such manner as by the report of a surveyor or assistant commissioner, or otherwise, shall appear to the commissioners to be reasonable, having regard to the sums expended by the successive owners, and such successive owners may be named in the certificate accordingly.

10. The words "owner of lands" shall, as to lands in Scotland, include any corporation. Meaning of
"owner of
lands," in
Scotland.

11. . . . the provisions herein contained shall be deemed to extend to all proceedings and matters already taken and done in the same manner as if such provisions had been originally inserted in the said recited Act. Construction.

[*S. 12 rep. 38 & 39 Vict. c. 66 (S.I. R.)*]

SCHEDULE to which this Act refers.

FORM of Assignment of Provisional Certificate. . . . Sect. 9.

I, *A.B.* of . . . , in consideration of the sum of pounds paid to me [or of the advances which may be made to me] by *C.D.*, do hereby assign to the said *C.D.* the within written provisional certificate, and all my right and interest in and to the advances which may be made in virtue thereof, to the intent that the said *C.D.*, his executors, administrators, or assigns, may claim and receive such advances, and may thereout retain the said sum of with interest for the same at . . . per centum per annum [or such sums as may be advanced to me by the said *C.D.* as aforesaid, with interest at . . . per centum per annum from the time of the respective advances thereof].

In witness whereof I have hereunto set my hand, this day of 18 . . .

CHAPTER XIV.

AN Act for consolidating in One Act certain Provisions usually contained in Acts for constructing or regulating Markets and Fairs.^[1] [23rd April 1847.]

[*Preamble.*]

[1.] This Act shall extend only to such markets or fairs as shall be authorized by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form This Act to
extend to such
markets or
fairs as shall
be authorised
by Acts here
after to be
passed which
shall declare
that this Act
shall be incor-

[¹ Short title, "The Markets and Fairs Clauses Act, 1847." See s. 4.]

porated therewith. part of such Act, and be construed therewith as forming one Act.

Interpretation. — And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows :

“The special Act” : 2. The expression “the special Act” used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction or regulation of a market or fair, and with which this Act shall be incorporated ; and the word

“Prescribed” : “prescribed” used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word “prescribed” the expression “prescribed for “that purpose in the special Act” had been used ; and the expression “the lands” shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof ; and the expression “the undertaking” shall mean the market or fair, and the works connected therewith, by the special Act authorised to be constructed or regulated ; and the expression “the undertakers” shall mean the persons authorised by the special Act to construct or regulate the market or fair.

“The lands” :
 “The under taking” :
 “The undertakers” :

Interpretation. 3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say,)

Number : Words importing the singular number shall include the plural number, and words importing the plural number shall include also the singular number :

Gender : Words importing the masculine gender shall include females :

“Person” : The word “person” shall include a corporation, whether aggregate or sole :

“Lands” : The word “lands” shall include messuages, lands, tenements and hereditaments, or heritages, of any tenure :

“Lease” : The word “lease” shall include a missive of and an agreement for a lease :

“The market or fair” : The expression “the market or fair” shall mean the market or fair, and the works connected therewith, by the special Act authorised to be constructed or regulated :

“Cart” : The word “cart” shall include waggon, and also any carriage used wholly or chiefly for the conveyance of goods :

“Driver” : The word “driver” shall include the carter or other person having the care of any cart :

“Cattle” : The word “cattle” shall include horse, ass, mule, ram, ewe, wether, lamb, goat, kid, or swine :

“Collector” : The expression “the collector” shall mean the person appointed by the undertakers to collect the stallages, rents, or tolls authorized by the special Act, shall include the assistants of the collector .

The word "month" shall mean calendar month :

"Month":

The expression "superior courts," when the matter submitted to the cognisance of the court arises in England or Ireland, shall mean Her Majesty's superior courts of record at Westminster or Dublin, as the case may require, . . . and when such matter arises in Scotland, it shall mean the Court of Session :

"Superior courts":

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath :

"County":

The word "county" shall include riding or other division of a county having a separate commission of the peace; and in Scotland, any division of a county having a separate sheriff, and it shall also include county of a city or county of a town :

The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognisance of any such justice arises; and if such matter arise in respect of lands situated not wholly in any one jurisdiction, shall mean a justice acting for the place where any part of such lands shall be situated; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices assembled and acting together :

"Two justices":

The word "sheriff" shall mean the sheriff depute of the county in Scotland in which the matter submitted to the cognisance of the sheriff arises, and shall include the substitutes of such sheriff depute :

"Sheriff":

The expression "quarter sessions" shall mean quarter sessions as defined in the special Act; and if such expression be not there defined it shall mean the general or quarter sessions of the peace which shall be held at the place nearest to the market or fair, or the principal office thereof, for the county or place in which the market or fair is situate, or for some division of such county having a separate commission of the peace.

"Quarter sessions":

And with respect to citing this Act, or any part thereof, be it enacted as follows :

Citing the Act.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Markets and Fairs Clauses Act, 1847."

Short title.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so

Form in which portions of this Act may be incorporated in other Acts.

incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

*Construction
of market or
fair.*

Taking of
lands for
purposes of
markets or
fairs to be
subject to
Lands Clauses
Acts and this
Act.
8 & 9 Vict. c.c.
18, 19.

And with respect to the construction of the market or fair, and the works connected therewith, be it enacted as follows :

6. Where by the special Act the undertakers shall be empowered, for the purpose of constructing the market or fair, to take or use any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act and in the Lands Clauses Consolidation Act, 1845, when the special Act relates to England or Ireland, and to the provisions and restrictions contained in this Act and the Lands Clauses Consolidation (Scotland) Act, 1845, when the special Act relates to Scotland ; and the undertakers shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of the special Act, or injuriously affected by the construction of the works thereby authorized, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other persons, by reason of the exercise, as to such lands, of the powers vested in the undertakers by this or the special Act, or any Act incorporated therewith ; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the said Lands Clauses Consolidation Acts respectively for determining questions of compensation with regard to lands purchased or taken under the provisions thereof ; and all the provisions of the said last-mentioned Acts respectively shall be applicable to determine the amount of any such compensation, and to enforce payment or other satisfaction thereof.

*Correction of
errors and
omissions in
special Act.*

7. If any omission, mis-statement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described or purporting to be described in the special Act, or in the schedule thereto, the undertakers, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by such proposed correction, may apply in England or Ireland to two justices, and in Scotland to the sheriff, for the correction thereof ; and if it appear to such justices or sheriff that such omission, mis-statement, or wrong description arose from mistake, they or he shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description ; and such certificate shall be deposited in England or Ireland with the clerk of the peace, and in Scotland with the sheriff clerk, of the county in which the lands affected thereby shall be situated, or, where any such lands are situated in a royal burgh in Scotland, with the town clerk of such burgh ; and such certificate

shall be kept by such clerk of the peace, sheriff clerk, or town clerk, with the other documents to which they relate, and thereupon the special Act or schedule shall be deemed to be corrected according to such certificate; and the undertakers may make the works in accordance with such certificate, as if such omission mis-statement, or wrong description had not been made.

8. Copies of any such alteration or correction thereof, or extracts therefrom, certified by any such clerk of the peace, sheriff clerk, or town clerk, in whose custody the same may be, which certificate such clerk shall give to all parties interested when required, shall be received in all courts of justice and elsewhere as evidence of the contents thereof.

Certified copies of alterations, &c. to be evidence.

9. The undertakers, in addition to the lands authorized to be taken compulsorily, or to be appropriated by them for the purposes of the market or fair, under the powers of this and the special Act, may appropriate any lands vested in them, or may contract with any person willing to sell the same for the purchase of any land within the limits of the special Act, not exceeding in the whole the prescribed number of acres for extraordinary purposes; (that is to say,)

Additional land for extraordinary purposes.

For providing slaughter-houses, (if the undertakers shall be authorized by the special Act to provide slaughter-houses,) and houses and places for weighing carts:

For making convenient roads and approaches to the market or fair:

For any other purpose which may be necessary for the formation or convenient use of the market or fair.

10. Subject to the provisions in this and the special Act, and any Act incorporated therewith, the undertakers, for the purpose of constructing a place for holding the market or fair, may execute any of the following works; (that is to say,)

Undertakers, subject to provisions of this and the special Act, may execute the works herein named.

They may enter upon any lands described in the special Act, or the schedule thereto, and other lands purchased by them or belonging to them, and set out such parts as they think necessary for the purposes of the market or fair, and thereupon from time to time build and maintain such market places or places for fairs, and such stalls, sheds, pens, and other buildings or conveniences, for the use of the persons frequenting the market or fair, and for weighing and measuring goods sold in the market or fair, and for weighing carts, as they may think necessary:

They may from time to time on such lands as aforesaid make and maintain all such roads and approaches as they may think necessary for the convenient use of the persons resorting to the market or fair.

11. Provided always, that in the exercise of the powers by this or the special Act granted the undertakers shall do as little damage as can be, and shall make full satisfaction, in manner herein and by the special Act and any Act incorporated therewith

Undertakers to make satisfaction for damage done.

provided, to all parties interested for all damages sustained by them by reason of the exercise of such powers.

*Holding of
market, &c.*

And with respect to the holding of the market or fair, and the protection thereof, be it enacted as follows :

Before the
market or fair
shall be
opened, notice
to be given by
undertakers.

12. Before the market or fair shall be opened for public use the undertakers shall give not less than ten days' notice of the time when the same will be opened, and such notice shall be given by the publication thereof in some newspaper circulating within the limits of the special Act, and by printed handbills posted on some conspicuous place within those limits.

Sales else-
where than in
market, or in
shops, &c.,
prohibited.

13. After the market place is opened for public use every person other than a licensed hawkers who shall sell or expose for sale in any place within the prescribed limits, except in his own dwelling place or shop, any articles in respect of which tolls are by the special Act authorised to be taken in the market, shall for every such offence be liable to a penalty not exceeding forty shillings.

Market days.

14. After the market place or place for fairs is opened for public use the undertakers shall hold markets and fairs therein on the prescribed days (if any), and on such other days as the undertakers shall appoint from time to time by any byelaw to be made in pursuance of this or the special Act.

Penalty for
selling or ex-
posing for sale
unwholesome
meat, &c.

15. Every person who shall sell or expose for sale any unwholesome meat or provisions in the market or fair shall be liable to a penalty not exceeding five pounds for every such offence; and any inspector of provisions appointed by the undertakers may seize such unwholesome meat or provisions, and carry the same before a justice, and thereupon such proceedings shall be had as are herein-after directed to be had in the case of any cattle or carcase seized in any slaughter-house and carried before a justice; and every person who shall obstruct or hinder the inspector of provisions from seizing or carrying away such unwholesome meat or provisions shall be liable to a penalty not exceeding five pounds for every such offence.

Penalty for
obstructing
market or fair
keeper.

16. Every person who shall assault or obstruct any person appointed by the undertakers to superintend the market or fair, or to keep order therein, whilst in the execution of his duty, shall for every such offence be liable to a penalty not exceeding forty shillings.

*Slaughter-
houses.*

And with respect to slaughter-houses, be it enacted as follows :

Power to erect
slaughter-
houses.

17. Where by the special Act the undertakers shall be empowered to provide slaughter-houses they may from time to time erect, on any land purchased by them under the provisions of this or the special Act, or any Act incorporated therewith, any buildings, or set apart and improve any buildings belonging to them for the slaughtering of cattle, and so soon as the

same shall be ready for public use the undertakers shall give notice to that effect by the publication thereof in some newspaper circulating within the limits of the special Act, and by printed handbills posted on some conspicuous place within the said limits.

18. Provided that nothing in this or the special Act, or any Act incorporated therewith, shall protect the undertakers from an indictment for nuisance, or from any other legal proceeding, in respect of any such slaughter-house as aforesaid.

Nothing to protect undertakers from an indictment for nuisance.

19. After the expiration of ten days from the publication and posting of such notice no person shall slaughter any cattle or dress any carcase for sale as human food or food of man in any place within the limits of the special Act other than a slaughter-house which was in use as such before and at the time of the passing of the special Act, and has so continued ever since, or the slaughter-houses made in pursuance of this and the special Act: and every person who shall after such notice as aforesaid, slaughter any such cattle or dress for sale any such carcase within the limits of the special Act in any place other than one of such slaughter-houses shall be liable to a penalty not exceeding five pounds for every such offence.

Penalty on slaughtering cattle, &c. elsewhere than in slaughter-houses.

20. The inspector of provisions, or any officer appointed by the undertakers for that purpose, may at all times of the day, with or without assistants, enter into and inspect all buildings erected or set apart by the undertakers for slaughtering cattle, and examine whether any cattle or the carcase of any cattle is deposited there; and in case such officer shall find any cattle, or the carcase or part of the carcase of any such cattle, which shall appear unfit for the food of man, he may seize and carry the same before a justice, and such justice shall forthwith order the same to be further inspected and examined by competent persons; and in case upon such inspection and examination such cattle, carcase, or part of a carcase shall be found unfit for the food of man, such justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man; and every person who shall obstruct or hinder such inspector or other officer in the discharge of any of the duties aforesaid shall be liable to a penalty not exceeding five pounds for every such offence.

Inspection of slaughter-houses.

And with respect to weighing goods and carts, be it enacted as follows:

Weighing of goods and carts.

21. The undertakers shall provide sufficient and proper weighing houses or places for weighing or measuring the commodities sold in the market or fair, and shall keep therein proper weights, scales, and measures, according to the standard weights and measures for the time being, for weighing such commodities as aforesaid, and shall appoint proper persons to

Weights and measures for weighing commodities sold at markets and fairs.

attend to the weighing or measuring such commodities at all times during which the market or fair is holden.

Articles to be weighed if requested by the buyer.

22. Every person selling or offering for sale any articles in the market or fair shall, if required so to do by the buyer, cause the same to be weighed or measured by the weights and scales or measures provided by the undertakers; and any such person who shall refuse, on demand, to cause such articles to be weighed or measured in manner aforesaid shall be liable to a penalty not exceeding forty shillings.

Penalty for refusal to weigh.

23. Every person appointed by the undertakers to weigh or measure any article sold in the market or fair who shall refuse or neglect to weigh or measure the same when required shall be liable to a penalty not exceeding forty shillings.

Machines for weighing carts, &c.

24. The undertakers shall provide sufficient and proper buildings or places for weighing carts in which goods are brought for sale within the market or fair or the prescribed limits, and shall keep therein machines and weights proper for that purpose, and shall from time to time appoint a person in every such building or place to afford the use of such machines to the public by weighing such carts with or without their loading, as may be required.

Weighing of carts with their loads, and after discharge.

25. The driver of every such cart shall, at the request of the buyer or seller of such goods, or his agent, take such cart, with or without the loading thereof, to the nearest of the said weighing machines, and shall permit the same to be weighed; and if such cart be weighed with its load thereupon the driver shall, if required, take such cart after its load has been discharged to the weighing machine nearest to such place of discharge, and permit it to be re-weighed without such load; and if any such driver shall for the purposes aforesaid be required to take such cart a greater distance than half a mile, including the going to and returning from such machines respectively, the owner of the cart shall be paid for every horse which shall be used in drawing such cart two-pence for the first half mile, and a like sum for every additional half mile; and such payment shall be made by the person requiring such cart to be weighed as aforesaid before the driver thereof shall be obliged to take it as aforesaid for the purpose of having it weighed.

Penalty on drivers for refusing to take carts to be weighed, &c.

26. The driver of any such cart who shall not, upon being so requested as aforesaid, and having such payment made or tendered as aforesaid, take the same to such weighing machine as herein-before directed, or who shall refuse to assist in the weighing of the same, shall forfeit to the person requiring such cart to be weighed a sum not exceeding twenty shillings.

Penalties on drivers committing frauds in weighing.

27. Every driver of any such cart weighed at any weighing machine to be provided in pursuance of this or the special Act who shall commit any of the following offences shall be liable to a

penalty not exceeding five pounds for each offence ; (that is to say,)

If he at the time of weighing any such cart knowingly have any thing in or about the same other than the proper loading thereof :

If he alter any ticket denoting the weight of any such cart, or the loading of the same :

If he make or use, or be privy to making or using, any ticket falsely stating the weight of any such cart or the loading thereof :

If he, after the weighing of any such cart with the loading thereof, remove any part of such loading, and afterwards dispose of or attempt to dispose of or represent the residue of such loading as being the full loading denoted by such ticket :

If he, between the time when the cart and the loading thereof have been so weighed and the time when such cart is weighed without such loading, change the wheels of such cart, or make any other change upon it after being required to allow such cart to be weighed without the loading thereof :

If he be guilty of any other fraudulent contrivance to misrepresent the weight of any such cart or of the loading thereof.

28. If the buyer or seller of any goods brought in any cart for sale within the market or fair, and which shall be required to be weighed as aforesaid, shall do any thing to such cart or its loading whereby the true weight thereof respectively shall be altered before such weighing, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on buyers or sellers for committing frauds in weighing.

29. The person for the time being appointed to keep any weighing machine provided in pursuance of this or the special Act shall be liable to a penalty not exceeding five pounds in any of the following cases ; (that is to say,)

Penalties for frauds committed by the machine keeper.

If he wilfully neglect, on application, duly to weigh any cart, with or without its loading, as the case may be, that is brought to the machine kept by him to be weighed :

If he do not fairly weigh every such cart, with or without loading, as the case may be :

If he do not deliver to the buyer or seller of any such loading, or to any person interested therein, on application, a ticket or account specifying the true weight of such cart, with or without such loading, as may be required :

If he give to the driver of any such cart a false ticket or account of the weight of such cart, with or without the loading thereof :

If he weigh any cart, with or without its loading, knowing that any thing had been done to such cart or to the loading thereof, to alter the true weight thereof respectively :

If he knowingly assist in or connive at any fraud concerning the weighing of any cart or the loading thereof, or make or connive at making any false representation of the weight of the same respectively.

Penalty on other parties committing frauds as to weighing.

30. Every person who shall knowingly act or assist in committing any fraud respecting the weighing or weight of any cart, or the loading thereof, in pursuance of this or the special Act, shall for every such offence be liable to a penalty not exceeding five pounds.

Tolls.

And with respect to the stallages, rents, and tolls to be taken by the undertakers, be it enacted as follows :

Tolls, &c. not to be demanded until market or fair is completed.

31. Unless it be otherwise provided by the special Act, the undertakers shall not demand or receive any stallage rent, or toll until the market place or place for a fair or slaughter-house in respect of the use of which the same shall be demanded shall be completed and fit for the use of the persons resorting thereunto.

Certificate of two justices to be evidence that market or fair is completed.

32. A certificate under the hand of any two justices shall be conclusive evidence that the same is completed and fit for public use as aforesaid ; and any such justices shall sign such certificate on proof being adduced to them that the market place or place for a fair or slaughter-house is so completed and fit for public use.

Tolls, &c. to be paid on demand to undertakers or collector.

33. The several stallages, rents, or tolls payable in respect of the market or fair or slaughter-house shall be paid from time to time, on demand, to the undertakers, or the collector or other person authorized by the undertakers to receive the same.

Tolls for weighing, &c. to be paid before goods, &c. are weighed, &c.

34. The tolls payable in respect of weighing or measuring marketable commodities, or carts with or without goods, shall be paid to the person authorized by the undertakers to weigh or measure the same by the persons bringing such marketable commodities or carts to be weighed or measured, before the same are weighed or measured.

Tolls in respect of cattle brought to market for sale.

35. The tolls in respect of cattle brought to the market for sale shall become due as soon as the cattle in respect whereof they are demandable, are brought into the market place, and before the cattle are put into any pen, or tied up in such market place ; and if the cattle be not removed within one hour after the close of the market, another toll shall become due in respect of the cattle so omitted to be removed.

Stallages, tolls, &c. may be varied from time to time.

36. The undertakers may from time to time change the stallages, rents, and tolls to be taken in respect of the market or fair, or for the slaughter-houses, or for weighing and measuring, provided that the stallages, rents, and tolls in no case exceed the amounts authorized by the special Act.

Penalty on taking a greater toll

37. Every person who shall demand or receive a greater toll than that authorized to be taken under the provisions of this or

the special Act, shall for every such offence be liable to a penalty than authorized. not exceeding forty shillings.

38. If any person liable to the payment of any stallage, rent, or toll authorized by this or the special Act to be taken do not pay the same when demanded, the undertakers or their lessee, or any person authorized by the undertakers or their lessee to collect the same, may levy the same in England or Ireland by distress, and in Scotland by poinding and sale, of all or any of the cattle or other articles in respect of which such stallage, rent, or toll is payable, or of any other cattle or other articles in the market belonging to the person liable to pay such stallage, rent, or toll, or under his charge, or such tolls may be recovered in any court having competent jurisdiction. Recovery of tolls by distress, &c.

39. If any dispute arise concerning any such stallage, rent, or toll, such dispute shall be determined in England or Ireland by a justice, and in Scotland by the sheriff, and such justice or sheriff shall, on application made to him, determine the same, and make such order therein, and award such costs to either party, as to him shall seem proper; and in default of payment, on demand, of the money which shall be so awarded, and of the costs, the same shall be forthwith levied in England or Ireland by distress, and in Scotland by poinding and sale, and the justice or sheriff shall issue his warrant accordingly. Disputes respecting tolls, how to be settled.

40. Every person who shall assault or obstruct any person authorized to collect any stallage, rent, or toll authorised by this or the special Act, shall for every such offence be liable to a penalty not exceeding forty shillings. Penalty for obstructing collector of rents, &c.

41. The undertakers or their lessee shall from time to time cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, a list of the several stallages, rents, and tolls from time to time payable under this and the special Act, and shall cause a board containing such list to be conspicuously set up and continued in the market or fair, and in each weighing-house and slaughter-house provided by the undertakers to which each such list shall relate, and no stallage, rent, or toll shall be payable during the time such list is not so set up, or for any thing not specified therein: Provided always, that if such list shall be destroyed, injured, or obliterated, the stallages, rents, and tolls shall continue to be payable during such time as shall be reasonably required for the restoration of such list, in the same manner as if such list had continued in the state required by this Act. List of tolls, &c. to be set up in conspicuous places.

And with respect to the byelaws to be made by the undertakers, be it enacted as follows: Byelaws.

42. The undertakers may from time to time make such bye laws as they think fit for all or any of the following purposes; (that is to say,) Byelaws may be made for all or any of the purposes herein named.

For regulating the use of the market place and fair, and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto :

For fixing the days, and the hours during each day, on which the market or fair shall be held :

For inspection of the slaughter-houses, and for keeping the same in a cleanly and proper state, and for removing filth and refuse at least once in every twenty-four hours, and for requiring that they be provided with a sufficient supply of water, and preventing the exercise of cruelty therein :

For regulating the carriers resorting to the market or fair, and fixing the rates for carrying articles carried therefrom within the limits of the special Act :

For regulating the use of the weighing machines provided by the undertakers, and for preventing the use of false or defective weights, scales, or measures :

For preventing the sale or exposure for sale of unwholesome provisions in the market or fair :

And the undertakers may from time to time, as they shall think fit, repeal or alter any such byelaws ; provided always, that such byelaws shall not be repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special Act, or of any Act incorporated therewith ; and such byelaws shall be reduced to writing under the common seal of the undertakers, if they be a body corporate, or the hands and seals of two of the undertakers, if they be not a body corporate, and, if affecting other persons than the officers and servants of the undertakers, shall be printed and published as herein provided.

Byelaws may be enforced by penalties.

43. The undertakers, by the byelaws so to be made by them, may impose such reasonable penalties as they shall think fit, not exceeding five pounds for each breach of such byelaws ; provided that every such byelaw shall be so framed as to allow the justices or sheriff before whom any penalty imposed thereby shall be sought to be recovered to order the whole or part only of such penalty to be paid.

No byelaws to come into operation until approved by secretary of state.

44. No byelaws made under the authority of this or the special Act (except such as may relate solely to the officers or servants of the undertakers) shall come into operation until the same shall be allowed in the manner prescribed by the special Act, or, if no manner be prescribed, until the same shall be allowed by the justices at quarter sessions, if the market or fair be in England or Ireland, or the sheriff, if the market or fair be situate in Scotland, and in either case approved under the hand of one of Her Majesty's principal secretaries of state ; and it shall be incumbent on the justices at quarter sessions, or the sheriff, as the case may be, on the request of the undertakers, to examine into the byelaws which may be tendered to them for that

purpose, and to allow of or disallow the same, as to them may seem meet.

45. Provided always, that no such byelaw shall be allowed in manner herein mentioned unless notice of the intention to apply for an allowance of the same shall have been given in one or more newspapers of the county in which the market or fair shall be situated, or, if there be no newspaper in such county, in one or more newspapers of the adjoining county, one month at least before the hearing of such application; and any party aggrieved by any such byelaw, on giving notice of the nature of his objection to the undertakers ten days before the hearing of the application for the allowance thereof, may, by himself or his counsel, attorney, or agent, be heard thereon, but not so as to allow more than one party to be heard upon the same matter of objection.

Notice of application for allowance of byelaws.

46. For one month at least before any such application for allowance of any byelaw a copy of such proposed byelaws shall be kept at the principal office of the undertakers, and shall be put up in some conspicuous place in the market place or fair, and all persons at all reasonable times may inspect such copy without fee or reward, and the undertakers shall furnish every person who shall apply for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words so to be copied.

Copy of proposed byelaws to be open for inspection.

47. The said byelaws shall be published in the prescribed manner, and when no manner of publication is prescribed they shall be printed, and the clerk of the undertakers shall give a printed copy thereof to every person applying for the same without charge, and a copy thereof shall be painted or placed on boards, and put up in some conspicuous part of the principal office of the undertakers, and also in some conspicuous place in the market place or fair, and such boards, with the byelaws thereon, shall be renewed from time to time as occasion shall require, and shall be open to inspection without fee or reward; and in case the said clerk shall not permit the same to be inspected at all reasonable times, he shall for every such offence be liable to a penalty not exceeding five pounds.

Publication of byelaws.

48. All byelaws made and confirmed according to the provisions of this and the special Act, when so published and put up, shall be binding upon and be observed by all parties, and shall be a sufficient warrant for all persons acting under the same.

Byelaws to be binding on all parties.

49. The production of a written or printed copy of the byelaws requiring confirmation by the court of quarter session or the sheriff, authenticated by the signature of the judge or of the chairman of the court or the sheriff who shall have approved of the same, and requiring approval under the hand of one of Her Majesty's principal secretaries of state, and a written or printed copy of the byelaws not requiring such confirmation or approval, authenticated by the common seal of the undertakers, if they be

Proof of publication of byelaws.

a body corporate, or under the hands of the undertakers, if not incorporated, or any two of them, shall be evidence of the existence and making of such byelaws in all cases of prosecution under the same, without proof of the signature, of such judge, chairman, or sheriff, or such secretary, of state, or the common seal or signature of the undertakers; and with respect to the proof of the publication of any such byelaws, it shall be sufficient to prove that a painted board containing a copy thereof was put up and continued in manner by this Act directed, and in case of its afterwards being displaced or damaged, that such board was replaced or restored as soon as conveniently might be, unless proof be adduced by the party complained against that such painted board did not contain a copy of such byelaws, or was not duly put up or continued as directed by this Act.

Accounts.

Annual account to be made up by the undertakers.

50. And with respect to the receipts and expenditure of the undertakers, be it enacted, that the undertakers shall in every year cause an annual account in abstract to be prepared, showing the whole receipt and expenditure of all rents and other monies levied by virtue of this or the special Act for the year ending the thirty-first day of December, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited or certified by the chairman of the undertakers, and by the auditors, if any, and shall send a copy of the said account, free of charge, to the clerk of the peace in England and Ireland, and the sheriff clerk in Scotland, of the county in which the market or fair is situate, on or before the expiration of one month from the day on which such accounts shall end, which account shall be open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection; and if the undertakers omit to prepare or send such account as aforesaid, they shall forfeit for every such omission the sum of twenty pounds.

[S. 51 rep. 57. & 58 Vict. c. 56. (S.L.R.)]

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matters referred to justices in England or Ireland, and to the sheriff or justices in Scotland, be it enacted as follows:

Railways
Clauses Acts,
1845, as to
damages, &c.
to be incor-
porated.

52. If the market or fair be in England or Ireland, the clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and if the market or fair be in Scotland, the clauses of the Railways Clauses Consolidation (Scotland) Act, 1845, with respect to the recovery of damages not specially provided for, and penalties, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the market or fair and the undertakers respectively, and shall be

construed as if the word "undertakers" had been inserted therein instead of the word "company."

[S. 53 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

54. And be it enacted, that nothing in this or the special Act shall be deemed to extend to or affect any Act of Parliament relating to her Majesty's duties of customs or excise, or any other revenue of the crown, or to extend to or affect any claim of her Majesty in right of her crown, or otherwise howsoever, or any proceedings at law or in equity by or on behalf of her Majesty, in any part of the United Kingdom of Great Britain and Ireland.

Nothing in this or the special Act to affect the rights of the crown.

55. All things herein or in the special Act, or any Act incorporated therewith, authorized or required to be done by two justices may and shall be done in England and Ireland by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices, and in Scotland by the sheriff of any county, or his substitute.

Power of magistrate to act alone.

56. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied, by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expences, as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the last-mentioned Act.

Penalties, &c. imposed in the metropolitan police district.

2 & 3 *Vict.* c. 71.

57. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Persons giving false evidence liable to penalties of perjury.

And with respect to access to the special Act, be it enacted as follows:

Access to special Act.

58. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their

Copies of special Act.

principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace of the county in England or Ireland, and in the office of the sheriff's clerk of the county in Scotland, in which the undertaking is situate, a copy of such special Act, so printed as aforesaid; and the said clerk of the peace and sheriff clerk shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837.

7 Will. 4. &
1 Vict. c. 88.

Penalty on
undertakers
failing to keep
or deposit such
copies.

59. If the undertakers fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

[S. 60 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XV.

AN ACT for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Gasworks for supplying towns with Gas. [¹] [23rd April 1847.]

[*Preamble.*]

Incorporation with
special Act.

[1.] This Act shall extend only to such gasworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith, and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretation.

"The special
Act":

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

"Prescribed":

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of gasworks, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same

[¹ Short title, "The Gasworks Clauses Act, 1847." See s. 4.]

shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the lands" shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the gasworks, and the works connected therewith, by the special Act authorised to be constructed; and the expression "the undertakers" shall mean the persons by the special Act authorised to construct the gasworks.

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Interpretations.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number: Number:

Words importing the masculine gender shall include females: Gender:

The word "person" shall include corporation, whether aggregate or sole: "Person":

The word "lands" shall include messuages, lands, tenements, and hereditaments, or heritages, of any tenure: "Lands":

The word "street" shall include any square, court, or alley highway, lane, road, thoroughfare, or public passage or place, within the limits of the special Act: "Street":

The expression "the gasworks" shall mean the gasworks, and the works connected therewith, by the special Act authorised to be constructed: "The gasworks":

The expression "gas rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of gas: "Gas rate":

The word "month" shall mean calendar month: "Month":

The expression "superior courts," where the matter submitted to the cognizance of the superior courts arises in England or Ireland, shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require, and where such matter arises in Scotland, it shall mean the Court of Session: "Superior courts":

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath: "Oath":

The word "county" shall include riding or other division of a county having a separate commission of the peace; and in Scotland, any division of a county having a separate sheriff; and it shall also include county of a city or county of a town: "County":

"Justice":

The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together:

"Two justices":

"Sheriff":

The word "sheriff" shall mean the sheriff depute of the county in Scotland in which the matter submitted to the cognizance of the sheriff arises, and shall include the substitutes of such sheriff depute:

"Quarter sessions."

The expression "quarter sessions" shall mean quarter sessions as defined in the special Act; and if such expression be not there defined it shall mean the court of general or quarter sessions of the peace which shall be held at the place nearest to the gasworks, or the principal office thereof, for the county or place in which the gasworks are situate, or for some division of such county having a separate commission of the peace.

Citing the Act.

And with respect to citing this Act, or any part thereof, be it enacted as follows:

Short title of this Act.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The Gasworks Clauses Act, 1847."

Incorporation of parts of this Act with other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Laying of pipes.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows:

Power break up streets, &c. under superintendence, and to open drains, and to lay pipes, make sewers, erect lamps, &c.

6. The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and they may in such streets erect any

pillars, lamps, and other works, and do all other acts which the undertakers shall from time to time deem necessary for supplying gas to the inhabitants of the district included within the said limits, doing as little damage as may be in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers.

7. Provided always, that nothing herein shall authorize or empower the undertakers to lay down or place any pipe or other works into, through, or against any building, or in any land, not dedicated to public use, without the consent of the owners and occupiers thereof; except that the undertakers may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act or any other Act of Parliament, and may repair or alter any pipe so laid down.

Undertakers
not to enter
on private
land without
consent.

8. Before the undertakers proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Notice to be
served on
persons having
control, &c.,
before break-
ing up streets
or opening
drains.

9. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices: and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the undertakers' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets or
drains not to
be broken up
except under
superintende-
nce of
persons having
control of the
same.

Streets, &c.
broken up to
be reinstated
without delay.

Roads, &c. to
be fenced and
lighted while
opened ;

and to be kept
in repair for a
certain time
afterwards.

Penalty for
delay in rein-
stating streets,
&c.

In case of
delay, persons
having control
of streets, &c.
may reinstate
them.

10. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement, where the same shall be open or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

11. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the undertakers are hereby authorized to perform such works without any superintendence or notice, or if the undertakers make any delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding five pounds for every such offence, and they shall forfeit an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

12. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expence of executing the same shall be repaid to such persons by the undertakers ; and such expences may be recovered in the same manner as damages are recoverable under this or the special Act.

And with respect to the supply of gas, and the recovery of the rent to be paid for the same, be it enacted as follows :

*Supply of
gas.*

13. The undertakers may from time to time enter into any contract with any person for lighting or supplying with gas any public or private building, or for providing any person with pipes, burners, meters, and lamps, and for the repair thereof; and may also from time to time enter into any contract with the commissioners, trustees, or other persons having the control of the streets within the limits of the special Act for lighting the same or any of them with gas, and for providing such commissioners, trustees, or persons with lamps, lamp posts, burners, and pipes for such purpose, and for the repairs thereof, in such manner and upon such terms as shall be agreed upon between the undertakers and the said commissioners, trustees, or other persons.

Power of the undertakers to contract for lighting buildings, streets, &c.

14.[¹] The undertakers may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings for the gas, for such remuneration in money as shall be agreed upon between the undertakers and any person to whom the same may be so let, and such remuneration shall be recoverable in the same manner as the rents or sums due to the undertakers for gas; and such meters and fittings shall not be subject to distress or to the landlord's hypothec for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law or equity, or any fiat or sequestration in bankruptcy, against the person in whose possession the same may be.

Power to undertakers to let meters and fittings.

Meters, &c. not liable to distraint for rent, &c.

15.[¹] The clerk, engineer, or other officer duly appointed for the purpose by the undertakers may at all reasonable times enter any building or place lighted with gas supplied by the undertakers, in order to inspect the meters, fittings, and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the undertakers a sum not exceeding five pounds.

Undertakers may enter buildings for ascertaining quantities of gas consumed.

Penalty for obstructing them.

16. If any person supplied with gas by virtue of this or the special Act neglect to pay the rent due for the same to the undertakers, the undertakers may stop the gas from entering the premises of such person, by cutting off the service pipe, or by such means as the undertakers shall think fit, [¹ and recover the rent due from such person, if less than twenty pounds, together with the expence of cutting off the gas, and the costs of recovering the rent, in the same manner as any damages for the recovery of which no special provision is made are recoverable under this

If rent is not paid, gas may be cut off, and rent and expences recovered.

[¹ Ss. 14, 15, the part of s. 16 inclosed in brackets, and s. 17, are rep. 33 & 39 Vict. c. 66 (S.L.R.) except so far as incorporated with special Acts to which 34 & 35 Vict. c. 41. does not apply.]

or the special Act; or, if the rent so due amount to twenty pounds or upwards, the undertakers may recover the same, together with the expences of cutting off the gas, by action in any court of competent jurisdiction.]

Power to take
away pipes,
&c. when
supply of gas
discontinued.

17.^[1] In all cases in which the undertakers are authorized to cut off and take away the supply of gas from any house or building or premises, under the provisions of this or the special Act, the undertakers, their agents or workmen, after giving twenty-four hours previous notice to the occupier, may enter into any such house, building, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the undertakers.

Undue use of
gas.

And with respect to waste or misuse of the gas, or injury to the pipes and other works, be it enacted as follows :

Penalty for
fraudulently
using the gas
of the under-
takers.

18. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the undertakers without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the undertakers is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the undertakers, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or who shall otherwise improperly use or burn such gas, or shall supply any other person with any part of the gas supplied to him by the undertakers, shall forfeit to the undertakers the sum of five pounds for every such offence, and also the sum of forty shillings for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished ; and the undertakers may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for
wilfully
removing or
damaging
pipes, &c.

19. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the undertakers for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the undertakers, shall for each such offence forfeit to the undertakers any sum not exceeding five pounds, in addition to the amount of the damage done.

Satisfaction for
accidentally
damaging
pipes, &c.

20. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the undertakers, or under their control, shall pay such sum of money by way of satisfaction to the undertakers for the damage done, not exceeding five pounds, as any two justices or the sheriff shall think reasonable.

[¹ See note on preceding page.]

And with respect to the provision for guarding against fouling water, or other nuisance from the gas, be it enacted as follows :

Nuisance from gas.

21. If the undertakers shall at any time cause or suffer to be brought or to flow into any stream, reservoir, or aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the undertakers shall forfeit for every such offence the sum of two hundred pounds.

Penalty on undertakers allowing washings, &c. produced in making gas to flow into streams, reservoirs, &c.

22. The said penalty of two hundred pounds shall be recovered, with full costs of suit, in any of the superior courts, by the person into whose water such washing or other substance shall be conveyed or shall flow, or whose water shall be fouled by any such act as aforesaid ; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it shall have ceased.

Penalty to be sued for in superior court within six months.

23. In addition to the said penalty of two hundred pounds (and whether such penalty shall have been recovered or not) the undertakers shall forfeit the sum of twenty pounds (to be recovered in like manner) for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the undertakers by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby, and such penalty shall be paid to such last-mentioned person.

Daily penalty during the continuance of the offence.

24. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the undertakers, they shall, immediately after receiving notice thereof in writing, prevent such gas from escaping ; and in case the undertakers shall not within twenty-four hours next after service of such notice effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of five pounds for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice.

Daily penalty during escape of gas after notice.

25. Whenever any water within the limits of the special Act shall be fouled by the gas of the undertakers, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty for fouling water by gas.

Power to open ground and examine gas pipes, to ascertain whether water is fouled by gas.

Ground, &c. to be reinstated.

Expences to abide result of examination.

How expences shall be ascertained and recovered.

Nothing to exempt undertakers from being indicted for a nuisance.

Profits of the undertakers.

Profits of the undertakers limited.

26. For the purpose of ascertaining whether such water be fouled by the gas of the undertakers, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the undertakers; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours notice in writing to the undertakers of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place; and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay or any nonfeasance or misfeasance therein, as are herein-before provided with respect to roads and pavements broken up by the undertakers for the purpose of laying their pipes.

27. If upon any such examination it appear that such water has been fouled by any gas belonging to the undertakers, the expences of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the undertakers; but if upon such examination it appear that the water has not been fouled by the gas of the undertakers, the person causing such examination to be made shall pay all such expences, and shall also make good to the undertakers any injury which may be occasioned to their works by such examination.

28. The amount of the expences of every such examination and repair, and of any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered.

29. Nothing in this or the special Act contained shall prevent the undertakers from being liable to an indictment for nuisance, or to any other legal proceeding to which they may be liable in consequence of making or supplying gas.

And with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, be it enacted as follows:

30. The profits of the undertaking to be divided amongst the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate.

31. If the clear profits of the undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed a sum equal to one tenth of the nominal capital of the undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the undertakers; and if such fund be at any time reduced, it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen.

If profits exceed the amount limited, excess to be invested and form a reserved fund.

32. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified in England or Ireland by two justices, and in Scotland by the sheriff, that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim within the meaning of this or the special Act.

Reserved fund not to be resorted to to meet an extraordinary claim, except on certificate.

33. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one tenth of the nominal capital of the company, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the undertaking to which the profits thereof are applicable.

When fund amounts to prescribed sum, interest to be applied to purposes of the undertaking.

34. If in any year the profits of the undertaking divisible amongst the undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

If profits are less than the prescribed rate, deficiency may be supplied from the reserved fund.

35. In England or Ireland the court of quarter sessions, and in Scotland the sheriff, may, on the petition of any two gas-rate payers within the limits of the special Act, nominate and appoint some accountant or other competent person, not being a proprietor of any gasworks, to examine and ascertain, at the expence of the undertakers, (the amount of such expence to be determined by the said court or sheriff,) the actual state and condition of the concerns of the undertakers, and to make report thereof to the said court at the then present or some following sessions, or to the sheriff; and the said court or sheriff may examine any witnesses upon oath touching the truth of the said accounts and the matters therein referred to; and if it thereupon appear to the said court or sheriff that the profits of the

If profits are more than the amount prescribed, rateable reduction to be made in the price of gas.

undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount herein-before limited have been paid, make such a rateable reduction in the rate for gas to be furnished by them as in the judgment of the said court or sheriff shall be proper, but so as such rates when reduced, shall ensure to the undertakers (regard being had to the amount of profit before received) a profit as near as may be to the prescribed rate.

Court may order petitioner to pay costs of groundless petition.

36. Provided always, that if, in the case of any petition so presented, it appear to the said court or sheriff that there was no sufficient ground for presenting the same, the said court or sheriff may, if they or he think fit, order the petitioner to pay the whole or any part of the costs of or incident to such petition, (the amount thereof to be determined by the said court or sheriff,) and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this or the special Act.

Penalty on undertakers for refusing to produce books, vouchers, &c.

37. If the undertakers shall, for seven days after being required to produce to the said court or sheriff, or to the said accountant or other person as aforesaid, any books of account or other books, bills, receipts, vouchers, or papers relating to the pecuniary affairs of the undertakers, refuse or neglect to produce such books, bills, receipts, vouchers, or papers, they shall forfeit the sum of one hundred pounds for every such refusal or wilful neglect, and the further sum of ten pounds for every day such refusal or wilful neglect shall continue after the expiration of the said seven days; such respective penalties to be recovered by any person who will sue for the same, with full costs of suit, in any of the superior courts.

Account.

Annual account to be made up by undertakers.

38. And with respect to the yearly receipt and expenditure of the undertakers, be it enacted, that the undertakers shall, in each year after they have begun to supply gas under the provisions of this or the special Act, cause an account in abstract to be prepared of the total receipts and expenditure of all rents or funds levied under the powers of this or the special Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the undertakers; and also by the auditors thereof, if any; and a copy of such annual account, if the gasworks be situated in England or Ireland, shall be transmitted, free of charge, to the clerk of the peace for the county in which the gasworks are situate, and if the gasworks be situated in Scotland, such copy shall be transmitted, free of charge as aforesaid, to the sheriff clerk of such county, and such transmission shall be made on or before the thirty-first day of January in each year, under a penalty of twenty pounds for each default; and the copy of such account so sent to the said

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clerk of the peace or sheriff clerk shall be kept by him, and shall be open to inspection by all persons at all seasonable hours, on payment of one shilling for each inspection.

[S. 39 *rep.* 57 & 58 *Vict.* c. 36. (S.L.R.)]

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, be it enacted as follows:

*Recovery of
damages and
penalties.*

40. If the gasworks be in England or Ireland, the clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and if the gasworks be in Scotland, the clauses of the Railways Clauses Consolidation Act (Scotland), 1845, with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the gasworks and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

Railways
Clauses Acts,
as to damages,
&c. to be
incorporated
with this
and the
special Act.

App

[S. 41 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

42. All things herein or in the special Act, or any Act incorporated therewith, authorised or required to be done by two justices, may and shall be done in England and Ireland by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices, and in Scotland by the sheriff of any county, or his substitute.

Acts which
may be done
by one
magistrate.

43. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall, be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied, by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and

Penalties, &c.
within metro-
politan police
district.

2 & 3 *Vict.*
c. 71.
Appeal, &c.

such witnesses shall be entitled to the same allowance of expences, as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

Persons giving false evidence liable to penalties of perjury.

44. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Access to special Act.

And with respect to access to the special Act, be it enacted as follows :

Copies of special Act.

45. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England or Ireland, and of the sheriff clerk in Scotland, of the county in which the undertaking is situated, a copy of such special Act, so printed as aforesaid; and the said clerk of the peace and sheriff clerk shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837.

7 Will. 4. & 1 Vict. c. 83.

Penalty on undertakers failing to keep or deposit such copies.

46. If the undertakers fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not kept or deposited.

Saving as to 57 Geo. 3. c. xxix., &c.

47. And be it enacted that nothing in this Act contained shall be deemed to exempt the undertakers from the provisions of an Act passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled "An Act for better paving, improving, and regulating the streets of the Metropolis, and removing and preventing nuisances and obstructions therein," or from the laws of sewers for the time being in force within ten miles from the Royal Exchange in the City of London.

Saving as to rights of the crown.

48. Nothing in this or the special Act shall be deemed to extend to or affect any Act of Parliament relating to her Majesty's duties of customs or excise, or any other revenue of the crown, or to extend to affect any claim of her Majesty in right of her crown, or otherwise howsoever, or any proceedings at law or in equity, by or on behalf of her Majesty, in any part of the United Kingdom of Great Britain and Ireland.

49. Nothing herein or in the special Act contained shall be deemed to exempt the undertakers from any general Act relating to gasworks, or any Act for improving the sanitary condition of towns and populous districts, which may be passed in the same session in which the special Act is passed, or any future session of Parliament. Saving as to future Acts.

[S. 50 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

CHAPTER XVI.

AN ACT for consolidating in One Act certain Provisions usually contained in Acts with respect to the Constitution and Regulation of Bodies of Commissioners appointed for carrying on Undertakings of a public Nature.^[1]

[23rd April 1847.]

[Preamble.]

[1.] This Act shall extend only to such undertakings or commissioners as shall be authorized or constituted by any Act of Parliament hereafter to be passed, which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the commissioners constituted by such Act, and to the undertaking for carrying on which such commissioners shall be constituted, so far as the same shall be applicable thereto respectively; and such clauses, with the clauses of every other Act which shall be incorporated therewith, shall, save as aforesaid, form part of such Act, and be construed therewith as forming one Act. Incorporation with Special Act.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows: Interpretation.

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed constituting a body of commissioners as herein-after defined for the purpose of carrying on any undertaking, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the special Act be authorized to be executed or carried on; and the expression "the commissioners" shall mean the commissioners, trustees, undertakers, or other persons, or body corporate, constituted by the special Act, or thereby entrusted with powers for executing the undertaking. "The special Act";
"Prescribed";
"The undertaking";
"The commissioners."

[¹ Short title, "The Commissioners Clauses Act, 1847." See s. 4.]

Interpretations
in this and the
special Act :

3. The following words and expressions both in this and the special Act, and any Act incorporated therewith, shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction ; (that is to say,)

Number: Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number :

Gender: Words importing the masculine gender only shall include females :

" Person " : The word " person " shall include a corporation, whether aggregate or sole :

" Lands " : The word " lands " shall extend to messuages, lands, tenements, and hereditaments, or heritages, of any tenure :

" Month " : The word " month " shall mean calendar month :

" Superior courts " : The expression " superior courts," where the matter submitted to the cognizance of the court arises in England or Ireland, shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require . . . ; and where such matter arises in Scotland shall mean the Court of Session :

" Oath " : The word " oath " shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath :

" County " : The word " county " shall include riding or other division of a county having a separate commission of the peace, and in Scotland any division of a county having a separate sheriff and it shall also include county of a city or county of a town :

" Justice " : The word " justice " shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises ; and where any matter is authorized or required to be done by two justices, the expression " two justices " shall be understood to mean two or more justices met and acting together :

" Sheriff " : The word " sheriff " shall mean the sheriff depute of the county in Scotland in which any matter submitted to the cognizance of the sheriff arises, and shall include the substitutes of such sheriff depute.

" Quarter sessions " : The expression " quarter sessions " shall mean quarter sessions as defined in the special Act ; and if such expression be not there defined it shall mean the general or quarter sessions of the peace which shall be held at the place nearest to the undertaking for the county or place in which the undertaking, or the principal office thereof, is situate, or for some division of such county having a separate commission of the peace :

" Clerk " : The expression " the clerk " shall mean the clerk of the commissioners, and shall include the word " secretary " :

The expression "the town" shall mean the town or district "The town." named in the special Act within which the powers of the commissioners are to be exercised.

And with respect to citing this Act or any part thereof, be it enacted as follows : *Citing the Act.*

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Commissioners Clauses Act, 1847." *Short title.*

5. For the purpose of incorporating part only of this Act with any Act of Parliament hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Acts relates. *Incorporation of parts of this Act with other Acts.*

With respect to the qualification of commissioners, be it enacted as follows : *Commissioners.*

6. Where by the special Act the qualification of the commissioners is made to depend upon their being rated in respect of property of a given amount, then, if two or more persons be jointly rated in respect of any property, each of such persons shall, subject to the provisions herein and in the special Act contained, be eligible to be chosen a commissioner, provided the property in respect of which such persons are rated be of a rateable yearly value, which, when divided by the number of persons so rated, will give to each a sufficient rateable yearly value according to the provisions of this and the special Act. *Joint owners or occupiers when eligible as commissioners, in cases where qualification depends on rating.*

7. The same property shall not at the same time give a qualification as commissioner to one person as the owner, and to another as the occupier thereof. *Same property not to qualify both owner and occupier.*

8. No bankrupt or insolvent, or person not qualified as required by the special Act, shall be capable of being or continuing a commissioner. *Disqualification of bankrupt.*

9. Any person who at any time after his appointment or election as commissioner shall accept or continue to hold any office or place of profit under the special Act, or be concerned or participate in any manner in any contract, or in the profit thereof, or of any work to be done under the authority of such Act, shall thenceforth cease to be a commissioner, and his office shall thereupon become vacant. *Commissioner holding office or concerned in a contract to cease to be a commissioner.*

10. Provided always, that no person being a shareholder or member of any joint stock company established by Act of Parliament shall be prevented from acting as a commissioner by reason *Shareholders in companies not disqualified as commis-*

sioners by
reason of
contracts.

of any contract entered into between such company and commissioners; but no such commissioner, being a member of such company, shall vote on any question relating to the execution of this or the special Act in which such company is interested.

Commissioner
not incapable
of acting as
justice.

11. A person shall not be incapable of acting as a justice of the peace in the execution of this or the special Act, with reference to the levying of any penalty thereunder, by reason of his being a commissioner.

Declaration to
be made by
commissioners.

12. No person shall be capable of acting as a commissioner, except in administering the declaration herein-after mentioned, until he shall have made and signed, before one of the commissioners, a declaration to the effect following:

"I, A.B. do solemnly declare, that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities reposed in me as a commissioner, by virtue of the [here name the special Act], and also that I [here set forth a statement of the possession of the qualification required by the special Act, in the terms thereof]."

False
declaration
R.P. 1946

13. Any person who shall falsely or corruptly make and subscribe the declaration aforesaid, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor, or in Scotland shall be deemed guilty of perjury.

Declaration to
be made at
first meeting.

14. Every person elected or appointed a commissioner shall, at the meeting of commissioners at which he first attends as a commissioner, make and subscribe the declaration herein required, and any commissioner, whether he himself have made such declaration or not, may administer such declaration.

Penalty on
commissioner
acting with-
out being
qualified, &c.

15. Every person who shall act as a commissioner, being incapacitated or not duly qualified to act, or before he has made or subscribed such declaration as aforesaid, or after having become disqualified, shall for every such offence be liable to a penalty of fifty pounds; and such penalty may be recovered by any person, with full costs of suit, in any of the superior courts; and in every such action the person sued shall prove that at the time of so acting he was qualified, and had made and subscribed the declaration aforeaid, or he shall pay the said penalty and costs without any other evidence being required from the plaintiff than that such person had acted as a commissioner in the execution of this or the special Act; nevertheless all acts as a commissioner of any person incapacitated, or not duly qualified, or not having made or subscribed the declaration aforesaid, done previously to the recovery of the penalty, shall be as valid as if such person had been duly qualified.

Commissioner
neglecting to
make declara-
tion, or absent
from meetings,

16. Every commissioner who for the space of six months after his appointment neglects to make and subscribe the declaration herein-before required, or who for six months in succession is absent from all meetings of the commissioners, and to act in the

execution of this and the special Act, shall be deemed to have refused to act, and shall cease to be a commissioner.

to cease to be commissioner.

And with respect to the election and rotation of the commissioners, where the commissioners are to be elected by the ratepayers or other like class of electors, be it enacted as follows :

Election and rotation of commissioners.

17. Where by the special Act it is provided that the commissioners shall be elected by the ratepayers within the town, or other like class of electors, the first body of commissioners, whether appointed by the special Act, or elected under the provisions of this and the special Act, shall go out of office according to the prescribed rotation, and at the prescribed times, and where no rotation or time of going out of office is prescribed they shall go out of office by rotation in the following manner (that is to say), on the first Thursday in the month of September in the year following that in which the special Act is passed one third of such body of commissioners shall go out of office, and on the first Thursday in September in the following year another third of such body of commissioners shall go out of office, and on the first Thursday in September in the year following the remainder of such body of commissioners shall go out of office, and on the first Thursday in the month of September in every subsequent year one third of the commissioners, being those who have been longest in office, shall go out of office; and in each instance the places of the retiring commissioners shall be supplied by the election of a like number of commissioners in the manner herein or in the special Act provided: Provided always, that if the prescribed number of commissioners be some number not divisible by three and the number of commissioners to retire be not prescribed, the commissioners shall in each case determine what number of commissioners, as nearly one third as may be, shall go out of office, so that no commissioner shall remain in office longer than three years without being re-elected.

One-third of elected commissioners to go out of office every three years.

18. Every commissioner going out of office by rotation, or otherwise ceasing to be a commissioner, may be re-elected, and after such re-election he shall, with reference to going out by rotation, be considered as a new commissioner.

Commissioners eligible to be re-elected.

19. If any of the commissioners die or resign, or be disqualified, or cease to be a commissioner from any other cause than that of going out of office by rotation, the remaining commissioners, if they think fit, may, within one month from the happening of such vacancy, elect another commissioner in his place; and every commissioner so elected shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office.

Mode of supplying occasional vacancies.

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20. In order to determine the rotation by which such first body of commissioners shall go out of office, the commissioners shall within one month after the passing of the special Act (or after the first election of commissioners, as the case may be,) determine the rotation by which the first body of com-

Manner of determining the rotation by which the first body of com-

commissioners
shall go out
of office.

meet at some convenient place for the purpose of forming a rotation list; and at such meeting the clerk, or some person to be then appointed for that purpose by the commissioners, shall write the names of all the commissioners on separate slips of paper, all as nearly as may be of equal size, and having folded them up in the same manner he shall put them into a balloting box, and shall, in the presence of the meeting, draw out such slips of paper in succession, and the names upon the slips so drawn shall be written by the clerk or other person in a list, in the order in which they are drawn, or, where the commissioners are elected for wards or other electoral divisions of the town, (and which electoral divisions are herein-after called wards,) in as many lists as there are wards or electoral divisions, and in the order aforesaid, each list containing the names of the commissioners for one such ward or electoral division only; and every such list shall be kept by the clerk among the papers of the commissioners, and the names therein shall be numbered consecutively, and the commissioners shall retire from office in the order in which their names appear on such list or lists, as the case may be, in the proportions herein-before or in the special Act mentioned.

Annual
meetings for
election of
commissioners.

21. For the purpose of electing commissioners from time to time in the place of those who go out by rotation, a meeting of the persons entitled to vote at such election shall be held at the prescribed place, and if no place be prescribed at the principal office of the commissioners, on the prescribed day, or if no day be prescribed on the first Thursday in the month of September in the year following that in which the special Act is passed, and on the first Thursday in September in each succeeding year, or, if the commissioners are to be elected for wards, a meeting of the persons entitled to vote in each ward shall on the same day be held at some place to be appointed by the commissioners, of which meetings, and the time and place of holding the same, public notice shall be given by the clerk by advertisement, and also by placards affixed on the principal doors of the parish churches or other public places in the town, seven clear days at the least before the day of election, and at such meeting or meetings the election of commissioners shall take place as herein-after mentioned.

Returning
officers at
elections.

22. Where the appointment of the returning officer to act at the election of commissioners is not provided for by the special Act, the chairman of the commissioners shall be the returning officer; and if the commissioners are to be elected for wards, the said chairman shall act as the presiding officer at the election for the ward for which he was elected a commissioner, and he shall appoint some other commissioner for each of the other wards to be the presiding officer at the election for such ward, and in case of the death of any such presiding officer, or of his declining or becoming incapable to act, the commissioners shall

appoint another of their body to be the presiding officer in the place of the person so dying or declining, or becoming incapable to act, and the clerk to the commissioners shall, two days at least before each election, by advertisement, placards, or otherwise, give public notice of every such appointment.

23. At every such election of commissioners the commissioners shall cause to be printed a sufficient number of voting papers in blank, in the form given in the schedule (A.) to this Act annexed, or to the like effect, and shall furnish them to the returning officer for the use of the voters; and if it appear to the returning officer at any election expedient so to do, he may cause booths to be erected, or rooms to be hired and used as booths, for taking the poll at such election, and he shall in such case appoint a clerk to take the poll at each booth, and shall cause to be affixed on the most conspicuous part thereof the name of the ward or district for which such booth is provided; and public notice of every election, and of the situation of the different polling places, and of the place where voting papers may be procured by electors, shall be given by the returning officer two days at least before the commencement of the poll.

Provision as
to voting
papers and
polling places.

24. Where by the special Act the owners of property and ratepayers are entitled to vote in the election of commissioners, and no scale of voting is prescribed, every such owner and ratepayer shall have respectively the same number and proportion of votes according to the scale following; (that is to say,)

Scale of votes
of owners and
occupiers.

(as am)

appl., 26 G 5

8 1 Edw 8

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If the property in respect of which he is entitled to vote be rated upon a rateable value of less than fifty pounds, he shall have one vote :

Scale 26 G 5 8 Edw 8 2 2

If such rateable value amount to fifty pounds and be less than one hundred pounds, he shall have two votes :

If it amount to one hundred pounds and be less than one hundred and fifty pounds, he shall have three votes :

If it amount to one hundred and fifty pounds and be less than two hundred pounds, he shall have four votes :

If it amount to two hundred pounds and be less than two hundred and fifty pounds, he shall have five votes :

And if it amount to or exceed two hundred and fifty pounds, he shall have six votes.

25. Where by the special Act the commissioners are directed to be elected for wards, every person entitled to vote in the election of commissioners shall vote for commissioners for that ward only wherein the property or part thereof in respect of which his name appears in the rate book is situate; and if any person be rated in respect of property situate in more than one ward, he may vote for commissioners for any one of such wards, but having so voted he shall not afterwards, at the same election, vote for a commissioner for any other ward; and any vote so afterwards given by him shall be void.

Electors to
vote in wards.

Lists of voters.

26. Before any such election of commissioners the commissioners, if they think it necessary for enabling the returning officer to take the poll conveniently at such election, may cause an alphabetical list to be made out of the names of the persons entitled to vote at such election, as they appear in the rates made for the purposes of the special Act, and they shall deliver to the returning officer for the time being a sufficient number of copies of the list so prepared, to enable the returning officer to take the poll at the election, and they may defray the expence of making such list and copies out of the rates payable to them under the special Act.

Returning officer may summon rate collectors, &c. to attend the election, and answer questions as to rights of electors to vote.

27. If the qualification of the electors of the commissioners depend upon the rates payable by such electors, the returning officer may summon the overseers or inspectors of the poor, collectors, and other officers employed in the assessment or collection of the rates to attend the election, in order to assist in ascertaining that the persons presenting themselves to vote, or who have voted, are or were duly qualified to vote at such election; and such overseers or inspectors, rate collectors, or other officers shall attend with the rates and such other documents necessary for the purpose aforesaid as may be in their custody or power, at such places and at such times as the returning officer may direct, and shall answer all such questions as any presiding officer at the poll shall put to them respecting the title of any person to vote at the election; and any overseer or inspector, rate collector, or other officer who shall wilfully neglect or fail to perform the duties hereby imposed upon him shall for such neglect or failure be liable to a penalty not exceeding twenty pounds.

Mode of voting at elections.

28. At every such election of commissioners the voting shall commence at nine of the clock in the forenoon of the day fixed for the election as aforesaid, and shall finally close at four of the clock in the afternoon of the same day, (unless in case of riot or obstruction,) and shall be conducted in manner following; (that is to say,) every person entitled to vote may vote for any number of persons having the prescribed qualification, (not exceeding the number of commissioners then to be chosen for the town, or, where the commissioners are to be elected in wards, not exceeding the number to be elected for the ward in which such person is entitled to vote,) by delivering to the presiding officer at the poll a voting paper, containing a description of his qualification to vote, in the form contained in schedule (A.) to this Act annexed, or to the like effect, and also the names of the persons for whom he votes, such paper being previously signed with the name of the person voting, and the poll clerk shall thereupon openly record such vote in the poll book, and the voting paper shall be carefully preserved by the presiding officer; and the presiding officer shall, if he thinks fit, or if he be required so to do by any person entitled to vote at the said election, put to

any voter at the time of his delivering in his voting paper the following questions, or either of them :

1. Are you the person assessed as *A.B.*, on the [] rate [*specifying the rate which confers the right to vote*], in respect of property described to be situated in [*here specify the street, &c. as described in the rate*] ?

Or, if the voter claim to vote as the owner of property,

Are you the person described as the owner of the property mentioned in [] rate [*specifying the rate*], and described as being situated in [*here specify the street, &c. as described in the rate*] ?

2. Have you already voted at the present election ? [*or, if the town be divided into wards*], have you already voted for commissioners to be elected for this or any other ward at the present election ?

And no person required to answer either of the said questions shall be permitted or qualified to vote until he has answered the same ; and if any person wilfully make a false answer to either of the questions aforesaid he shall be deemed guilty of a misdemeanor, or in Scotland shall be deemed guilty of perjury.

29. The presiding officer at any place of voting may close the voting or poll at any time before four of the clock, if one hour have elapsed during which no voting paper has been tendered at such place of voting.

Poll may be closed if no voting paper be tendered for one hour.

30. After the close of the poll the returning officer, or, where the commissioners are elected for wards, the presiding officer in each ward, shall examine the poll books, and, if necessary, compare the entries therein with the rate book and with the voting papers so delivered as aforesaid, for the purpose of ascertaining the number of votes given for each person ; and so many of such persons, being not more than the number of persons then to be chosen for the town, or for each ward, as the case may be, and having the prescribed qualification, as shall have the greatest number of votes shall be deemed to be elected ; and in case of an equality in the number of votes for any two or more such persons, the presiding officer shall, if necessary to prevent an excess in the number of commissioners, decide by lot which of such persons shall be elected ; and the presiding officer shall, not later than two of the clock in the afternoon of the day next but one following the day of such election, unless such day be Sunday, and then on the day following, publish a list of the names of the persons so elected, and he shall also send a notice to each person so elected, informing him of his being elected a commissioner.

Examination of poll books and declaration of poll.

31. Within four days after every election the returning officer, or, where the commissioners are elected for wards, the presiding officer in each ward, shall cause the voting papers delivered as aforesaid to be arranged in alphabetical order, and numbered according to the names of the voters, and shall deliver them, together with the poll books, to the clerk to the

Voting papers and poll books to be open to inspection for six months after election.

commissioners; and such clerk shall, during six months at least after every such election, keep such voting papers and poll books at his office, and shall permit any person to inspect the same on payment of a fee of one shilling; and if such clerk shall refuse or fail to allow such inspection, he shall for every such refusal or failure be liable to a penalty of ten pounds.

Where same person is elected commissioner in more than one ward.

32. If any person be elected a commissioner in more than one ward, he shall within three days after notice thereof choose, or in default thereof the commissioners at their next meeting shall declare, for which one of the wards such commissioner shall serve, and he shall thereupon be held to be elected in that ward only which he shall so choose or which the commissioners shall so declare, and shall cease to be a commissioner for any other ward.

Where no election, adjournment.

33. If from any cause no election take place on the day appointed for the same, either for the town or for any ward, the election shall stand adjourned until the same day of the following week, and the returning officer shall give not less than three days previous notice thereof, by advertisement, or by placards affixed in public places in the town; and in such case the commissioners who would on that day have retired from office by rotation shall continue in office until such adjourned election takes place.

Election not to be void for want of title in presiding officer.

34. No election of commissioners shall be liable to be questioned by reason only of any defect in the title, or any want of title, of the person by or before whom such election shall have been held; provided that such person have been actually appointed to preside, or have been acting in the office giving the right to preside at such election.

Expences of returning or presiding officer, &c.

35. All expences of or incident to any election incurred by the returning officer or presiding officer shall be repaid to them by the commissioners out of the monies arising from the rates authorized to be levied for the purposes of the special Act; and all overseers and other parochial officers or other persons shall be in like manner paid a reasonable remuneration for attendance at the election with rate books, and for any other services performed in relation to such election; and any dispute respecting the amount of such expences and remuneration shall be determined by a justice, or by the sheriff, who shall have power also to fix the costs attending such determination and to order by whom the same shall be paid.

Meetings of commissioners.

And with respect to the meetings and other proceedings of the commissioners, and their liabilities, be it enacted as follows:

First meeting of the commissioners.

36. The commissioners shall hold their first meeting at the prescribed time and place, and if a time or place be not prescribed they shall hold their first meeting at some convenient place within the limits of the special Act on the third Wednesday next after the commencement thereof, or, if the first body of

commissioners be not named in the special Act, on the first Wednesday after the first election of commissioners, or as soon after such periods respectively as conveniently may be, at the hour of ten of the clock in the forenoon, and shall proceed to put this and the special Act into execution.

37. At the first meeting of the commissioners they shall, by the majority of the votes of the commissioners present, elect one of their body to be their chairman until the next annual meeting of the commissioners, when, and at every subsequent annual meeting, the commissioners shall in like manner elect a chairman for the ensuing year; and in case the chairman die, or resign, or cease to be a commissioner, or otherwise become disqualified to act as such, the commissioners present at the meeting next after the occurrence of such vacancy shall choose some other of their body to fill such vacancy, and the chairman so elected shall continue in office so long only as the person in whose place he was elected would have been entitled to continue chairman; and if at any meeting of the commissioners the chairman be not present, one of the commissioners present shall be elected chairman of such meeting by the majority of the votes of the commissioners present at such meeting.

Chairman of
commissioners.

38. At all meetings of the commissioners the questions there considered shall be decided by the votes of the majority present; and if there be an equal division of votes upon any question the chairman or commissioner acting as chairman at such meeting shall, in addition to his own vote as a commissioner, have a second or casting vote; provided always, that if at any such meeting there be an equality of votes in the election of the chairman, it shall be decided by lot which of the commissioners having an equal number of votes shall be the chairman; provided also, that at every annual meeting the chairman going out of office at that meeting shall, if present and willing to act, be the chairman of such meeting.

Voting at
meetings of
commissioners.

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39. All powers vested in the commissioners under this or the special Act may be exercised by the prescribed number, and where no number is prescribed by any five or more of the commissioners present at any meeting holden in pursuance of this and the special Act, and no business shall be transacted at any meeting of the commissioners unless the said number of commissioners be present.

Quorum of
commissioners.

40. The commissioners shall hold an annual meeting at the prescribed time and place, and if no time or place be prescribed then on the third Wednesday in the month of June in each year at a place to be appointed by the commissioners, and the first of such annual meetings shall be held in the year after that in which the special Act is passed; and they shall also hold monthly meetings for the transaction of general business, and the said monthly meetings shall be held at the office of the commissioners, on such day and hour in each month as the

Commissioners
to hold annual
and monthly
meetings.

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commissioners shall from time to time appoint, and when any such appointment is made the clerk shall give notice thereof to each of the commissioners, and they shall afterwards, until the time or place of such monthly meetings is changed, and notice of such change given to the commissioners, attend such monthly meetings without notice.

Meetings of commissioners may be adjourned from time to time.

41. The commissioners present at such first meeting, or at any annual or monthly meeting, or at any adjourned meeting, may from time to time adjourn such meeting to the same, or any other place within the limits of the special Act, and if at any meeting of the commissioners there be not the prescribed number, or where no number is prescribed five commissioners, present within one half-hour after the time appointed for such meeting, the commissioners present, or the major part of them, or any one commissioner if only one be present, or their clerk if no commissioner be present, may adjourn such meeting to another day at the same or any other place within the limits of the special Act.

Monthly meetings to be held for transacting ordinary business.

42. The said monthly meetings of the commissioners shall be held for transacting the ordinary business of the commissioners under this or the special Act, and amongst the rest for appointing and removing the inferior officers of the commissioners, and superintending their conduct, and for inquiring into the conduct of the contractors or other persons employed by them to execute any works, and into the state and progress of such works, and generally for giving such directions from time to time as may be necessary for carrying into effect the purposes of this and the special Act.

No extraordinary business to be transacted at monthly meetings, unless notice be given.

43. Where any business other than ordinary business is required or intended to be transacted at any monthly meeting, the clerk shall give notice thereof to each of the commissioners, and no such extraordinary business, nor any new rules or regulations, shall be adopted at the monthly meetings, unless due notice thereof have been given at a prior meeting, and sent to each commissioner in the manner required for special meetings.

Revocation of resolution of commissioners.

44. No resolution at any meeting of the commissioners shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given by the clerk to each of the commissioners seven days at least before holding the meeting, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the commissioners present at such subsequent meeting, if the number of commissioners present at such subsequent meeting be not greater than the number present when such resolution was come to, or by a majority, if the number of commissioners present at such subsequent meeting be greater than the number present at such former meeting.

45. The commissioners may hold special meetings, and any five or more of the commissioners may require a special meeting to be held, but no such meeting shall be held unless two clear days notice thereof at the least be given.

Special meetings.

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46. Where by the special Act the commissioners are empowered to do any thing by special order only, they shall not do such thing unless the resolution to do the same have been agreed to by the commissioners in some meeting whereof special notice has been given, and have been confirmed in a subsequent meeting held not sooner than four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings, and special notice thereof given to each of the commissioners.

Where things can be done by special order only, special notice to be given, and resolution to be confirmed.

47. All notices of any meeting of the commissioners shall be in writing or in print, or partly in writing and partly in print, and shall be by the clerk delivered or sent by the post, or otherwise, to the usual place of abode or place of business, if any, within the limits of the special Act, of each of the commissioners, two clear days at least previous to such meeting, and every such notice shall specify the time and place of meeting, and in case of a special meeting shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in the notice thereof.

Notices of meetings of commissioners.

48. At all meetings of the commissioners they shall defray their own expences, except what may be incurred for the use of the room in which the meeting is held, and for books, stationery, and fire.

Expences of meetings.

49. The commissioners may at any meeting, from time to time, appoint committees for any purposes which in the opinion of the commissioners would be better regulated and managed by means of such committee, and they may fix the quorum of any such committee, and may continue, alter, or discontinue such committee.

Power of commissioners to appoint committees.

50. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless the quorum of members, if any, fixed by the commissioners, and if no quorum be fixed, three members, be present; and at all meetings of the committee one of the members present shall be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Meetings of committees.

Quorum.

Voting.

51. No proceeding of the commissioners or of any committee shall be invalidated or be illegal in consequence only of there

Vacancies.

being any vacancy in the number of commissioners at the time of such proceeding.

Informalities
in appointment
of commis-
sioners.

52. All proceedings of the commissioners, or of a committee of commissioners, or of any person acting as a commissioner, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such commissioners or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a commissioner.

Commissioners
may provide
public offices,
&c.

53. The commissioners may from time to time provide and maintain fit and convenient public offices, together with all necessary and proper furniture for the same, for holding the meetings and transacting the business of the commissioners, and for the use of their officers, and for the holding of such public meetings and transacting such public business relating to the town as the commissioners shall, from time to time, under the powers of this or the special Act, or any Act incorporated therewith, direct or allow to be held or transacted therein, and for such purpose may purchase or hire any lands or buildings which the commissioners think necessary, from any person willing to sell or let the same, or may cause any new building to be erected upon any land purchased or hired under the provisions of this or the special Act, or otherwise belonging to the commissioners.

Commissioners
to provide
daily at
tendance at
their office to
receive notices,
&c.

54. The commissioners shall require their clerk, or some person duly authorized by them in that behalf, to attend to their office daily, Sundays, Christmas Days, and Good Fridays, and days appointed for general fasts or thanksgivings only excepted, for the purpose of receiving notices, and transacting the ordinary business of the commissioners, and due notice of the situation of the office of the commissioners, and of the hours during which attendance is given there, shall be published by the commissioners within the limits of the special Act, in such manner that the same may be fully and generally known.

Record of
proceedings of
commissioners.

55. The commissioners shall cause entries of all the proceedings of the commissioners, and of every committee appointed by them, with the names of the commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the commissioners, and every such entry shall be signed by the chairman of the meeting at which the proceeding took place, and such entry so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being commissioners or members of committees respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be

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presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the commissioners, and of any mortgagee of the rates or property of the commissioners.

And with respect to the contracts to be entered into and the deeds to be executed by the commissioners, be it enacted as follows:

Contracts.

56. The commissioners may enter into contracts with any persons for the execution of any works directed or authorized by this and the special Act to be done by the commissioners, or for furnishing materials, or for any other things necessary for the purposes of this or the special Act, and every such contract for the execution of any work shall be in writing, and shall specify the work to be done, and the materials to be furnished and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof; and the power hereby granted to the commissioners to enter into contracts may lawfully be exercised as follows; (that is to say,)

Power to commissioners to enter into contracts.

Any contract which if made between private persons would be by law required to be in writing and under seal, or in Scotland by a probative deed, the commissioners may make in writing and under their common seal, if they be incorporated, or, if not incorporated, under the hands and seals, or in Scotland under the hands, of the commissioners, or any two of them acting by the direction and on behalf of the commissioners, and in the same manner may vary or discharge the same:

Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith the commissioners may make in writing, signed by the commissioners, or any two of their number acting by the direction and on behalf of the commissioners, and in the same manner may vary or discharge the same:

Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, the commissioners, or any two of them acting by the direction and on behalf of the commissioners, may make by parol only, without writing, and in the same manner may vary or discharge the same:

And all contracts made according to the provisions herein contained, being duly executed by the persons contracting to perform the works therein comprised respectively, shall be effectual in law, and shall be binding on the commissioners, and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be, and in case of default in the execution of any such contract, either by the commissioners or by any other party thereto such actions or suits may be

maintained thereon, and damages and costs recovered by or against the commissioners or the other parties failing in the execution thereof, as might have been maintained and recovered had the same contracts been made between private persons only.

Tenders for
contracts and
security from
contractors.

57. Before any contract to the amount of one hundred pounds or upwards shall be entered into by the commissioners, ten days notice at the least shall be given in some one of the newspapers circulating within the limits of the special Act, expressing the purpose of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to the commissioners, and the commissioners shall accept the proposal which upon a view of all the circumstances shall appear to them to be most advantageous, and shall take security for the due and faithful performance of every such contract.

Commissioners
may compound
for breach of
contract.

58. The commissioners may compound with any party who has entered into any such contract, or against whom any action or suit has been brought for any penalty contained in any such contract, or in any bond or other security for the performance thereof, or on account of any breach or non-performance of any such contract, bond, or security, for such sums of money or other recompence as the commissioners may think proper.

Conveyance
of lands
by the
commissioners.

59. Where by the special Act or any Act incorporated therewith the commissioners are authorized or required to sell or convey any lands vested in them, and no other mode of conveyance is provided, they may convey such lands, or such interest as the commissioners have therein, by deed under the common seal of the commissioners, if they be a corporation, or, if not a corporation, by deed executed by the commissioners, or any two of them acting by the authority of and on behalf of the commissioners; and a deed so executed, followed as to lands in Scotland by infeftment duly recorded, shall be effectual to vest the lands comprised therein, or such interest as the commissioners have therein, in the grantee or other person to whom the same shall be so conveyed; and a receipt under such common seal, or under the hands of two of the commissioners acting as afore-said, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

Legal
proceedings.

And with respect to the liabilities of the commissioners, and to legal proceedings by or against the commissioners, be it enacted as follows:

Commissioners
not personally
liable.

60. No commissioner, by being party to or executing in his capacity of commissioner any contract or other instrument on behalf of the commissioners, or otherwise lawfully executing any of the powers given to the commissioners, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the several commissioners shall not be liable to execution of any

legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as commissioners; and the commissioners respectively, their heirs, executors, and administrators, shall be indemnified out of the rates and other monies coming to the hands of the commissioners by virtue of this and the special Act for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them.

61. In all actions and suits in respect of any matter or thing relating to the execution of this or the special Act, to be brought by or against the commissioners, it shall be sufficient, where such commissioners are not a body corporate, to state the names of any two of the commissioners, or the name of their clerk, as the party, plaintiff or defendant, representing the commissioners in any such action or suit, and no such action or suit shall abate or be discontinued, or required to be transferred, by reason of the death of any such commissioner, or by his ceasing to be a commissioner, or by the death, suspension, or removal of such clerk.

Actions or suits to be brought in the name of any two commissioners or their clerk, and not to abate by death, &c.

62. Execution upon every judgment or decree against the commissioners in any such action or suit shall be levied on the goods, chattels, or personal effects belonging to the commissioners by virtue of their office, and shall not in any manner extend to charge or make liable the persons, or private lands or goods, of any of the commissioners, or the heirs, executors, or administrators of any of them.

Executions to be levied on the goods belonging to commissioners by virtue of their office only.

63. Every commissioner or clerk in whose name any such legal proceedings shall be carried on, either as plaintiff or defendant, on behalf of the commissioners, shall be reimbursed, out of the monies which shall come into the hands of the treasurer of the commissioners by virtue of his office, all damages, costs, charges, and expences to which any such commissioner or clerk may be put, or with which he may become chargeable, by reason of being so made plaintiff or defendant.

Commissioners to be reimbursed all damages, &c. out of monies in hands of treasurer.

64. The commissioners may prefer a bill of indictment against any person who shall steal or wilfully injure any property or thing belonging to the commissioners, or under their management, or institute any other proceeding which may appear to them necessary for the protection of such property, and in every such case it shall be sufficient to state generally the property or thing in respect of which such proceeding shall have been taken to be the property of the commissioners, as they shall be described in the special Act, without naming the individual commissioners.

Indictments for injury, &c. to property of commissioners.

And with respect to the appointment and accountability of the officers of the commissioners, be it enacted as follows:

Officers.

65. The commissioners may from time to time appoint and employ a treasurer, clerk, collector, assessor, and all such other

Appointment and salaries of officers.

officers to assist in the execution of this and the special Act as they shall think necessary and proper, and from time to time remove any of such officers, and appoint others in the room of such as shall be so removed, or as may die, resign, or discontinue their offices, and may, out of the monies to be raised for the purposes of this and the special Act, pay such salaries and allowances to the said officers respectively as the commissioners shall think reasonable.

Offices of clerk and treasurer not to be held by same person.

66. The same person shall not be appointed to the office both of clerk and treasurer; and if any person being the clerk, or the partner of such clerk, or in the service of such clerk or of his partner, accept the office of treasurer, or if any person being the treasurer, or the partner of such treasurer, or in the service, of such treasurer or of his partner, accept the office of clerk, he shall forfeit the sum of one hundred pounds, and any person may sue for such penalty by action of debt or on the case in any of the superior courts, and shall on recovery thereof be entitled to full costs of suit.

Penalty on officer taking fees.

67. Every officer employed by the commissioners who shall exact or accept on account of anything done by virtue of his office, or in relation to the matters to be done under this or the special Act, any fee or reward whatsoever, other than the salary or allowances allowed by the commissioners, or who shall be in anywise concerned or interested in any bargain or contract made by the commissioners, shall be incapable of being afterwards employed by the commissioners, and shall forfeit the sum of fifty pounds, and any person may sue for such penalty by action of debt or on the case in any of the superior courts, and shall on recovery thereof be entitled to full costs of suit.

Security to be taken from officers.

68. Before any person, whether treasurer, collector, or other officer intrusted by the commissioners with the custody or control of monies by virtue of his office, shall enter upon such office, the commissioners shall take sufficient security from him for the faithful execution thereof.

Collectors to pay over monies and furnish accounts.

69. Every collector appointed or employed by the commissioners by virtue of this or the special Act to collect any rates shall, within seven days after he shall have received any monies on account of any such rates, pay over the same to the treasurer of the commissioners to their account, and the receipt of such treasurer for the monies so paid shall be a sufficient discharge to the collector; and every such collector shall, in such time and in such manner as the commissioners direct, deliver to them true and perfect accounts in writing under his hand of all monies received by him and of all monies paid by him to the said treasurer by virtue of this or the special Act, and also a list of the names of all persons who have neglected or refused to pay any rate or money owing by them, with a statement of the monies due from them respectively.

70. Every collector and other officer appointed or employed by the commissioners by virtue of this or the special Act, shall, from time to time when required by the commissioners, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all monies received by him on behalf of the commissioners, and such account shall state how and to whom and for what purpose such monies have been disposed of, and together with such account such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the commissioners, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

Officers to account when required and to pay over balances in their hands.

71. If any such collector or other officer fail to render such accounts as aforesaid, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for five days after being thereunto required he fail to deliver up to the commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this or the special Act, or any Act incorporated therewith, or belonging to the commissioners, then on complaint thereof being made to a justice, or to the sheriff, such justice or sheriff shall summon such officer to appear before two or more justices, or before such sheriff, according as the summons may have been issued by a justice or by the sheriff, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices or sheriff may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any monies of the commissioners are in the hands of such officer, or owing by him to the commissioners, such justices or sheriff may order such officer to pay the same.

Summary proceedings against officers.

72. If any such officer summoned as aforesaid refuse to make out such account in writing, or to produce and deliver to the justices or sheriff the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the commissioners, such justices or sheriff may commit such offender to gaol, there to remain until he shall have delivered up all the vouchers and receipts in his possession or power relating to such accounts, and all the books, papers, writings, property, effects, matters, and things, in his possession or power, belonging to the commissioners.

Officers refusing to make out account and deliver up documents, &c., may be committed to prison.

Warrant
against officer
about to
abscond.

73. Provided always, that if any commissioner, or other person acting on behalf of the commissioners, shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and that he does believe, that it is the intention of any such officer as aforesaid to abscond, the justice or the sheriff before whom the complaint is made may, instead of issuing his summons, issue his warrant for bringing such officer before such two justices as aforesaid, if the warrant be issued by a justice, or before such sheriff, if the warrant be issued by him; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours without bringing him before some justice or the sheriff, according as he may be summoned before the one or the other; and the justice or sheriff before whom such officer may be brought may either discharge such officer, if he think there is no sufficient ground for his detention, or order such officer to be detained in custody so as to be brought before two justices at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices to answer the complaint of the commissioners.

Proceedings
against officers
not to dis-
charge sure-
ties

74. No such proceeding against or dealing with any such officer as aforesaid shall deprive the commissioners of any remedy which they might otherwise have against any surety of such officer.

Mortgages.

And with respect to the mortgages to be executed by the commissioners, be it enacted as follows :

Mortgages of
rates, &c.

75. Every mortgage or assignation in security of rates or other property authorized to be made under the provisions of this or the special Act shall be by deed duly stamped, in which the consideration shall be truly stated; and every such deed shall be under the common seal of the commissioners, if they be a body corporate, or, if they be not a body corporate, shall be executed by the commissioners, or any five of them, and may be according to the form in the schedule (B.) to this Act annexed or to the like effect; and the respective mortgagees or assignees in security shall be entitled one with another to their respective proportions of the rates and assessments or other property comprised in such mortgages or assignations respectively, according to the respective sums in such mortgages or assignations mentioned to be advanced by such mortgagees or assignees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of the priority of advancing such monies, or of the dates of any such mortgages or assignations respectively.

Register of
mortgages.

76. A register of mortgages or assignations in security shall be kept by the clerk to the commissioners, and where by the special Act the commissioners are authorized or required to raise separate sums on separate rates or other property a separate register shall be kept for each class of mortgages or assignations

in security; and within fourteen days after the date of any mortgage or assignation in security an entry or memorial of the number and date thereof, and of the names of the parties thereto, with their proper additions, shall be made in the proper register, and every such register may be perused at all reasonable times by any person interested in any such mortgage or assignation in security, without fee or reward.

77. Any person entitled to any such mortgage or assignation may transfer his right and interest therein to any other person; and every such transfer shall be, by deed duly stamped, wherein the consideration shall be truly stated, and every such transfer may be according to the form in the schedule (C.) to this Act annexed, or to the like effect. Transfer of mortgages.

78. Within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the clerk to the commissioners, and thereupon such clerk shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage or assignation in security, and for such entry the clerk may demand a sum not exceeding five shillings; and after such entry every such transfer shall entitle the transferee, his executors, administrators, or assigns, to the full benefit of the original mortgage or assignation in security, and the principal and interest thereby secured, and such transferee may in like manner assign or transfer the same again toties quoties, and it shall not be in the power of any person, except the person to whom the same shall have been last transferred, his executors administrators, or assigns, to make void, release, or discharge the mortgage or assignation so transferred, or any money thereby secured. Register of transfers.

79. Unless otherwise provided by any mortgage or assignation in security, the interest of the money borrowed thereupon shall be paid half-yearly to the several parties entitled thereto. Interest on mortgages.

80. If the commissioners can at any time borrow or take up any sum of money at a lower rate of interest than any securities given by them and then be in force shall bear, they may borrow such sum at such lower rate as aforesaid, in order to pay off and discharge the securities bearing such higher rate of interest, and may charge the rates and other property which they may be authorized to mortgage or assign in security under this or the special Act, or any part thereof, with payment of such sum and such lower rate of interest, in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage or assignation in security. Power to borrow money at lower rate of interest to pay off securities at higher rate.

81. The commissioners may, if they think proper, fix a period for the repayment of all principal monies borrowed under the provisions of this or the special Act, with the interest thereof, Repayment of money borrowed at a time and

place agreed upon,

and in such case the commissioners shall cause such period to be inserted in the mortgage deed or assignation in security; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to receive such principal money and interest, and if no other place of payment be inserted in such deed such principal and interest shall be payable at the office of the commissioners.

Repayment of money borrowed when no time or place has been agreed upon.

82. If no time be fixed in the mortgage deed or assignation in security for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose, and in the like case the commissioners may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or creditor shall be delivered to the clerk or left at the office of the commissioners, and if given by the commissioners shall be given either personally to such mortgagee or creditor, or left at his residence, or if such mortgagee or creditor be unknown to the commissioners, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London Gazette, if the office of the commissioners is in England, the Edinburgh Gazette, if it is in Scotland, or in the Dublin Gazette, if it is in Ireland.

Interest to cease on expiration of notice to pay off a mortgage debt.

83. If the commissioners shall have given notice of their intention to pay off any such mortgage or assignation in security at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the commissioners fail to pay the principal and interest due at the expiration of such notice on such mortgage or assignation in security.

Sinking fund.

84. In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the commissioners shall every year appropriate and set apart out of such rates respectively a sum equal to the prescribed part, and if no part be prescribed one twentieth part, of the sums so borrowed respectively, as a sinking fund to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer bills or other government securities, or in Scotland deposited in one of the banks there incorporated by Act of Parliament or royal charter, and to be increased by accumulation in the way of compound interest or otherwise, until the same respectively shall be of sufficient amount to pay off the principal

debts respectively to which such sinking fund shall be applicable, or some part thereof which the commissioners shall think ought then to be paid off, at which time the same shall be so applied in paying off the same in manner herein-after mentioned.

85. Whenever the commissioners shall be enabled to pay off one or more of the mortgages or assignments in security which shall be then payable, and shall not be able to pay off the whole of the same class, they shall decide the order in which they shall be paid off by lot among the class to which such one or more of the mortgages or assignments in security belong, and shall cause a notice, signed by their clerk, to be given to the persons entitled to the money to be paid off, pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified, at the expiration of six months from the date of giving such notice.

Commissioners shall determine by lot which mortgages shall be paid off, and give notice accordingly.

86. Where by the special Act the mortgagees or assignees in security of the commissioners are empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due to them by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage or assignment in security has become payable, and after demand thereof in writing, the same be not paid, the mortgagee or assignee in security may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts, require the appointment of a receiver, by an application to be made as herein-after provided; and if within six months after the principal money owing upon any such mortgage or assignment in security has become payable, and after demand thereof in writing, the same be not paid, together with all interest due in respect thereof, the mortgagee or assignee in security, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts, may, if his debt amount to the prescribed sum, alone, or, if his debt do not amount to the prescribed sum, he may in conjunction with other mortgagees or assignees in security whose debts, being so in arrear, after demand as aforesaid, together with his amount to the prescribed sum, require the appointment of a receiver, by an application to be made as herein-after provided.

When payment of interest in arrear may be enforced by appointment of a receiver.

When payment of principal and interest in arrear may be so enforced.

87. Every application for a receiver in the cases aforesaid shall in England or Ireland be made to two justices, and in Scotland to the sheriff, and on any such application such justices or sheriff may, by order in writing, after hearing the parties, appoint some person to receive the whole or a competent part of the rates or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the

Appointment of receiver.

rates or sums aforesaid, be fully paid; and upon such appointment being made all such rates and sums of money as aforesaid, or such part thereof as may be ordered by the said justices or sheriff, shall be paid to the person so to be appointed, and the money so paid shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed, and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

Account books
to be open to
the inspection
of mortgagees.

88. The books of account of the commissioners shall be open at all seasonable times to the inspection of the respective mortgagees or assignees in security of the commissioners, with liberty to take extracts therefrom without fee or reward.

Accounts.

And with respect to the accounts to be kept by the commissioners, be it enacted as follows:

Accounts to
be kept of
receipts and
disbursements.

89. The Commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this and the special Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any of the commissioners, and any mortgagee, assignee in security, or other creditor of the commissioners, without fee or reward, and the commissioners and persons aforesaid, or any of them, may take copies of or extracts from the said books, without paying any thing for the same; and any clerk or other person having the custody of the said books who shall not on any reasonable demand of any commissioner, mortgagee, or creditor as aforesaid permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall be liable to a penalty of five pounds for every such offence.

Annual
statement of
accounts.

90. The commissioners shall cause their accounts to be balanced in each year to a period not less than one month before the annual general meeting at which they are to be produced, as after mentioned; and fourteen days at the least before such meeting the commissioners shall cause a full and true statement and account to be drawn out of the amount of all rates or assessments made, and of all contracts entered into, and of all monies received and expended, by virtue of this or the special Act, during the preceding year, and also of all debts then owing by the commissioners, and they shall cause such statement and account to be printed, and shall allow the same to remain for inspection at the office of the commissioners; and every creditor on the rates and assessments by this or the special Act, or any Act incorporated therewith, authorized to be made, and every person paying any such rate or assessment, or any person acting on behalf of any such creditor or ratepayer, may, at all

reasonable times, inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the commissioners; and the clerk shall, on demand, furnish a printed copy of the said statement and account to every such creditor and rate-payer, without fee; and fourteen days at the least before to the meeting for examining and settling such account the commissioners shall give public notice of such intended meeting, stating in such notice that the said statement and account are printed, and lie at the office of the commissioners ready for the inspection of the creditors and rate-payers or other parties interested.

91. The accounts of the commissioners, so balanced as aforesaid, together with the said statement and account, shall be produced at the annual meeting of the commissioners, or at some adjournment thereof, at which meeting all creditors and rate-payers and other persons interested may be present, and the accounts shall be then finally examined and settled by the commissioners, and if the same be found just and true they shall be allowed by the commissioners, and certified accordingly under the hand of the chairman of such meeting; and after such accounts have been so allowed and signed by such chairman, and also by the auditors, as herein-after provided, the same shall be final in regard to all persons whomsoever, unless an appeal be prosecuted against such accounts, as herein-after provided.

Accounts to be examined and settled at an annual meeting.

92. Except in the cases where by the special Act provision is made for the appointment of a permanent auditor, and such auditor shall have been appointed accordingly, the rate-payers present at the said annual meeting may appoint two or more persons, not being commissioners, to be auditors of the accounts of the commissioners; and if no other person present at such meeting propose the names of two persons to be appointed auditors by such meeting, it shall be the duty of the chairman of the meeting to propose the names of two persons to be so appointed; and the persons so to be appointed auditors shall have the like qualification, and shall be subject to the like disqualification or disability, as the commissioners; and before entering on their office they shall make and sign before a justice or the sheriff a solemn declaration of the like purport and effect to that hereby required to be signed by the commissioners; and the auditors so appointed shall receive a reasonable remuneration for their time and trouble, not exceeding two guineas each for every day they shall be fully employed on such audit, and all such expences as they shall be put unto attending the auditing of the said accounts; and if any dispute arise as to the amount of the remuneration and expences to be paid to such auditors, it shall in England or Ireland be settled by two justices, and in Scotland by the sheriff.

Auditors to be appointed.

Auditors to
inspect
accounts.

93. The auditors so nominated, or the said permanent auditor, if any shall have been appointed as aforesaid, shall attend as soon as conveniently may be after the said annual meeting, at the office of the commissioners, or at some other convenient place to be appointed by the commissioners, and from time to time shall, in the presence of the clerk to the commissioners, if he desire to be present, proceed to audit the accounts of the commissioners for the year preceding the said annual meeting; and the commissioners shall by their clerk produce and lay before such auditors the accounts so allowed and certified as aforesaid, together with the statement and account herein-before mentioned, accompanied with proper vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto; and any person interested in the said account, either as a creditor of the commissioners or as a rate-payer, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such account; and if the said accounts be found correct, such auditors shall sign the same in token of their allowance thereof, but if such auditors think there is just cause to disapprove of any part of the said accounts, they or any other person interested in the said accounts as aforesaid may appeal against any such parts of the said accounts as shall be so disapproved of, to one of the two next quarter sessions in England or Ireland, and to the sheriff in Scotland, notice in writing of such appeal being given to the clerk of the commissioners fourteen days at the least before the hearing of such appeal.

The court may
order payment
of the costs of
the appeal.

94. Upon the hearing of any such appeal the justices or the sheriff may make such order as they or he think fit respecting the payment of the costs of the appellant out of the monies coming to the hands of the commissioners under the special Act or otherwise, as they or he think fit, and such order shall be final.

Annual
account to be
made up and
transmitted
to the clerk of
the peace in
England or
Ireland, or
to the sheriff
clerk in Scot-
land, and to
be open to
inspection.

95. The commissioners shall every year cause an annual account in abstract to be prepared, showing the total receipt and expenditure of all funds levied by virtue of this and the special Act, and any Act incorporated therewith, for the year ending on the day down to which their accounts shall have been made up for the said annual meeting, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the commissioners, and also by the auditors thereof, and shall, if the undertaking is situated in England or Ireland, send a copy of the said account free of charge to the clerk of the peace for the county where the undertaking is situate, and, if the undertaking is situated in Scotland, shall send such copy to the sheriff clerk of such county, on or before the thirty-first day of January then next, or within one month after the same has been duly audited, which account

shall be open to the inspection of the public at all reasonable hours, on payment of the sum of one shilling for every such inspection; and if the commissioners shall omit to prepare and transmit such account as aforesaid, they shall be liable for every such omission to a penalty of twenty pounds.

And with respect to the making of byelaws, be it enacted as follows:

Byelaws.

96. The commissioners may from time to time make such byelaws as they think fit, for the purpose of regulating the conduct of the officers and servants of the commissioners, and for providing for the due management of the affairs of the commissioners, and may from time to time alter or repeal any such byelaws, and make others, provided such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special Act; and such byelaws shall be reduced into writing, and shall have affixed thereto the common seal of the commissioners, where the commissioners are a body corporate, or shall be signed by the commissioners, or any two of them, where they are not a body corporate; and a copy of such byelaws shall be given to every officer and servant of the commissioners affected thereby.

Byelaws for regulating the conduct of the officers, &c. of the commissioners.

97. The commissioners may by such byelaws impose such reasonable penalties upon all persons, being officers or servants of the commissioners, offending against such byelaws as the commissioners think fit, not exceeding five pounds for any one offence.

Penalties for breach of byelaws.

98. All the byelaws to be made by the commissioners shall be so framed as to allow the justice or the sheriff before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid, if such justice or sheriff think fit.

Byelaws to be so framed as that penalties may be mitigated.

And with respect to giving notices and orders, be it enacted as follows:

Notices.

99. Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the commissioners, may be served by the same being left at or sent through the post office, directed to the commissioners, at their principal office, or one of their principal offices where there shall be more than one, or by being given personally to the clerk, or in case there be no clerk, then by being given to any one commissioner.

Service of notices upon commissioners.

100. All notices required by this or the special Act, or any Act incorporated therewith, to be given by advertisement, shall be advertised in the prescribed newspaper, or if no newspaper be prescribed, or if the prescribed newspaper cease to be published, in a newspaper circulating in the district within which the undertaking shall be situated.

Notices by advertisement.

Authentication
of notices and
orders.

101. Every order, summons, notice, or other such document requiring authentication by the commissioners shall be sufficiently authenticated if signed by two commissioners, or by the clerk of the commissioners, and it need not be under the common seal of the commissioners, although they be incorporated, and the same may be in writing or in print, or partly in writing and partly in print.

Proof of debts
in bankruptcy.

102. And with respect to the proof of debts in bankruptcy . . . , be it enacted, that if any person against whom the commissioners have any claim or demand become bankrupt, . . . , the clerk or treasurer of the commissioners, in all proceedings against the estate of such bankrupt . . . , or under any fiat, sequestration, . . . against such bankrupt . . . , may represent the commissioners, and act in their behalf, in all respects as if such claim or demand had been the claim or demand of such secretary or treasurer, and not of the commissioners.

[S. 103 *rep.* 56 & 57 *Vict. c.* 61. s. 2.]

Recovery of
damages and
penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, be it enacted as follows:

Railways
Clauses Acts,
as to damages,
&c. to be
incorporated
with this and
the special
Act.

8 & 9 *Vict.*
c. 20, 33.

104. If the undertaking be situate in England or Ireland, the clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and if the undertaking be situate in Scotland, the clauses of the Railways Clauses Consolidation Act, (Scotland) 1845, with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the undertaking and to the commissioners respectively, and shall be construed as if the word "commissioners" had been inserted therein instead of the word "company."

Acts which
may be done
by one
magistrate.

per Bank
1891 ✓

105. All things herein or in the special Act, or any Act incorporated herewith, authorized or required to be done by two justices may and shall be done in England and Ireland by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices, and in Scotland by the sheriff of any county, or his substitute.

Penalties, &c.
in the metro-
politan police
district.

106. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid

to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied, by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expences, as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

[S. 107 rep. 38 & 39 Vict. c. 66. (S.L.R.)] ✓

108. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury. False evidence.

109. And be it enacted that nothing in this or the special Act shall be deemed to extend to or affect any Act of Parliament relating to her Majesty's duties of customs or excise, or any other revenue of the crown, or to extend to or affect any claim of her Majesty in right of her crown, or otherwise howsoever, or any proceedings at law or in equity by or on behalf of her Majesty, in any part of the United Kingdom of Great Britain and Ireland. Saving as to rights of the crown.

And with respect to access to the special Act, be it enacted as follows: Access to special Act.

110. The commissioners shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England or Ireland, and of the sheriff clerk in Scotland, of the county in which the undertaking is situate, a copy of such special Act, so printed as aforesaid; and the said clerk of the peace and sheriff clerk respectively shall receive, and they and the commissioners respectively shall keep, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837. Copies of special Act.
7 Will. 4. &
1 Vict. c. 83.

Penalty on
commissioners
failing to keep
or deposit such
copies.

111. If the commissioners fail to keep or deposit, as herein-
before mentioned, any of the said copies of the special Act, they
shall forfeit twenty pounds for every such offence, and also five
pounds for every day afterwards during which such copy shall be
not so kept or deposited.

[S. 112 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)] ✓

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

Sect. 23.

Voting Paper.

Town of
[or
district of]

Voting paper for the town [or district] of
[or, if divided into wards,

Voting paper for ward, in the town [or district] of]

Name of the persons voted for as commissioners.	Christian name and surname of voter.	Description of property.	Number of votes.	
			As owner.	As occupier

vote for the persons named in the above list as commissioners for
this town [or district, or ward, as the case may be].
(Signed)

Here the name of the voter should be written.

SCHEDULE (B.)

Sect. 75.

Form of Mortgage.

By virtue of [here name the special Act], we [here name the corpora-
tion, if the commissioners be incorporated, or if not incorporated, five of
the commissioners,] appointed in pursuance of the said Act, in considera-
tion of the sum of paid to the treasurer to the said
commissioners by A.B. of , for the purposes of the
said Act, do grant and assign unto the said A.B., his executors, adminis-
trators, and assigns, such proportion of the rates, rents, profits, and
other monies arising or accruing by virtue of the said Act from [here

describe the rates or other property proposed to be mortgaged] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, rents, profits, or monies, to hold to the said *A.B.*, his executors, administrators, and assigns, from this day until the said sum of , with interest at per centum per annum for the same, shall be fully paid and satisfied (the principal sum to be repaid at the end of years from the date hereof [*in case any period be agreed upon for that purpose*]). Given under our corporate seal [*or, In witness whereof we have hereunto set our hands and seals, or, if the deed be granted in Scotland, insert the testing clause required by the law of Scotland, as the case may be,*] this day of one thousand eight hundred and

SCHEDULE (C.)

Sect. 77.

Form of Transfer of Mortgage.

I *A.B.* of , in consideration of the sum of paid to me by *C.D.* of , do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage, [*or, if the deed be granted in Scotland, a certain assignation in security,*] number , made by "The Commissioners for executing the [*here name the special Act*] to , bearing date the day of , for securing the sum of and interest, [*or, if such transfer be by endorsement, the within security,*] and all my right, estate, and interest in and to the money thereby secured, and in and to the rates, rents, profits, or other monies thereby assigned. In witness whereof I have hereunto set my hand and seal [*or, if the deed be granted in Scotland, insert the testing clause required by the law of Scotland,*] this day of one thousand eight hundred and

[*Sched. (D.) rep. 54 & 55 Vict. c. 67. (S.L.R.)*] ✓

CHAPTER XVII.

AN ACT for consolidating in one Act certain Provisions usually contained in Acts authorising the making of Waterworks for supplying Towns with Water.[¹] [23rd April 1847.]

[*Preamble.*]

[1.] This Act shall extend only to such waterworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form

Incorporation
with special
Act.

[¹ Short title, "The Waterworks Clauses Act, 1847." See s. 4.]

part of such Act, and be construed therewith as forming one Act.

Interpretation. And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

“The special Act”: 2. The expression “the special Act” used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of waterworks, and with which
 “Prescribed”: this Act shall be incorporated; and the word “prescribed” used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word “prescribed” the expression “prescribed for that purpose in the special Act” had been used; and the expression “the lands and streams” shall mean the lands and streams of water which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression “the undertaking” shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed; and the expression “the undertakers” shall mean the persons by the special Act authorised to construct the waterworks.

Interpretations in this and the special Act: 3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Number: Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number:

Gender: Words importing the masculine gender shall include females:

“Person”: The word “person” shall include a corporation, whether aggregate or sole:

“Lands”: The word “lands” shall include messuages, lands, tenements, and hereditaments, or heritages, of any tenure:

“Streams”: The word “streams” shall include springs, brooks, rivers, and other running waters:

“Street”: The word “street” shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place, within the limits of the special Act:

“The water-works”: The expression “the waterworks” shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed:

“Water rate”: The expression “water rate” shall include any rent, reward, or payment to be made to the undertakers for a supply of water:

“Month”: The word “month” shall mean calendar month:

“Superior courts”: The expression “superior courts,” where the matter submitted to the cognizance of the court arises in England or Ireland, shall mean her Majesty’s superior courts of record at

Westminster or Dublin, as the case may require, . . .
and where such matter arises in Scotland, it shall mean the
Court of Session :

The word "oath" shall include affirmation in the case of "Oath":
Quakers, and any declaration lawfully substituted for an
oath in the case of any other persons allowed by law to
make a declaration instead of taking an oath :

The word "county" shall include riding or other division of a "County":
county having a separate commission of the peace; and in
Scotland any division of a county having a separate sheriff;
and it shall also include county of a city or county of a
town :

The word "justice" shall mean justice of the peace acting for "Justice":
the place where the matter requiring the cognizance of
any such justice arises; and if such matter arise in respect
of lands or streams situated not wholly in one jurisdiction
shall mean a justice acting for the county or place where
any part of such lands or streams shall be situated; and
where any matter is authorized or required to be done by
two justices, the expression "two justices" shall be under- "Two jus-
stood to mean two or more justices met and acting tices":
together :

The word "sheriff" shall mean the sheriff depute of the "Sheriff":
county in Scotland in which the matter submitted to the
cognizance of the sheriff arises, and shall include the substi-
tutes of such sheriff depute :

The expression "quarter sessions" shall mean quarter sessions "Quarter
as defined in the special Act; and if such expression be not sessions":
there defined it shall mean the court of general or quarter
sessions of the peace which shall be held at the place nearest
to the waterworks, or the principal office thereof, for the
county or place in which the waterworks, or the principal
office thereof, is situate, or for some division of such
county having a separate commission of the peace :

The expression "the town commissioners" shall mean the "The town
parties defined under that title in the special Act, and commis-
where no such parties shall be there defined shall mean sioners":
the commissioners, trustees, or other parties having the
control or management of the streets under any Act for
paving or improving the town or district to be supplied
with water under the special Act :

The word "inspector" shall mean an officer appointed under "Inspector":
any local Act relating to the town or district supplied with
water under the special Act for the purpose of inspecting or
superintending works connected with the paving, drainage,
or supply of water of such town or district, or an officer
appointed under any general Act for executing the like
duties with respect to such town or district together with
other towns or districts.

Citing the Act.

And with respect to citing this Act, or any part thereof, be it enacted as follows :

Short title of this Act.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The " Waterworks Clauses Act, 1847."

Form in which portions of this Act may be incorporated in other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Construction of waterworks.

And with respect to the construction of the waterworks, be it enacted as follows :

Taking of lands, &c. for purposes of special Act to be subject to this Act and the Lands Clauses Acts.

6. Where by the special Act the undertakers shall be empowered, for the purpose of constructing or supplying waterworks, to take or use any lands or streams otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act, and, if the waterworks be situated in England or Ireland, to the provisions and restrictions contained in the Lands Clauses Consolidation Act, 1845, and, if the waterworks be situated in Scotland, the provisions and restrictions contained in the Lands Clauses Consolidation, Scotland, Act, 1845; and shall make to the owners and occupiers of and all other parties interested in any lands or streams taken or used for the purposes of the special Act, or injuriously affected by the construction or maintenance of the works thereby authorized, or otherwise by the execution of the powers thereby conferred, full compensation for the value of the lands or streams so taken or used, and for all damage sustained by such owners, occupiers, and other persons, by reason of the exercise, as to such lands and streams, of the powers vested in the undertakers by this or the special Act, or any Act incorporated therewith; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the said Lands Clauses Consolidation Acts respectively for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the said last-mentioned Acts respectively shall be applicable to determine the amount of any such compensation, and to enforce payment or other satisfaction thereof.

8 & 9 Vict.
c. 18.

8 & 9 Vict.
c. 19.

7. If any omission, mis-statement, or wrong description shall have been made of any lands or streams, or of the owners, lessees, or occupiers of any lands or streams, described on the plans or books of reference deposited in compliance with the standing orders of either House of Parliament, or in the schedule to the special Act, the undertakers, after giving ten days notice to the owners, lessees, and occupiers of the lands and streams affected by such proposed correction, may apply in England or Ireland to two justices, and in Scotland to the sheriff, for the correction thereof; and if it appear to such justices or sheriff that such omission, mis-statement, or wrong description arose from mistake, they or he shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate, with the other documents to which it relates, shall be deposited in England or Ireland with the clerk of the peace, and in Scotland with the sheriff clerk, of the several counties in which the lands or streams affected thereby are situated, or, where any such lands or streams are situated in a royal burgh in Scotland, with the town clerk of such burgh; and such certificate shall be kept by such clerks of the peace, sheriff clerks, or town clerks respectively with the other documents to which they relate; and thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate; and the undertakers may make the works in accordance with such certificate, as if such omission, mis-statement, or wrong description had not been made.

Correction of errors and omissions in plans, &c.

8. The undertakers shall not begin to execute the waterworks unless they shall have previously deposited with the clerk of the peace in England or Ireland, and the sheriff clerk in Scotland, of every county, and the town clerk of every royal burgh in Scotland, in which the waterworks shall be situated, a plan and section of all such alterations from the original plan and section (if any) as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original plan and section of the waterworks, and shall also have deposited with the parish clerks of the several parishes in England, and the clerks of the unions of the several parishes in Ireland, and the schoolmasters of the several parishes in Scotland, in which such alterations shall have been authorized to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively.

Works not to be proceeded with until plans of alterations authorized by Parliament have been deposited.

9. The said clerks of the peace, sheriff clerks, and town clerks, parish clerks, clerks of unions, and schoolmasters shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall keep the same, as well as the said original plans and sections, and shall allow all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for

Clerks of the peace, &c. to receive plans of alterations, &c. and allow inspection.

7 Will. 4. &
1 Vict. c. 83.

default, as is provided in the case of the original plans and sections by the Parliamentary Documents Deposit Act, 1837.

Certified
copies of plans
and alterations,
&c. to be
evidence.

10. Copies of the said plans and books of reference, or of any alteration or correction thereof or extracts therefrom, certified by any such clerk of the peace, sheriff clerk, or town clerk, which certificate such clerk shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Undertakers,
in constructing
waterworks,
not to deviate
beyond limits
defined upon
plans, &c.

11. The undertakers, in constructing the waterworks, shall not deviate from the line of the works laid down in the said plan more than the prescribed number of yards, and when no number of yards is prescribed not more than ten yards, nor in any case to any greater extent than the line of lateral deviation described in the said plans with respect to such works, nor take nor use, for the purpose of such deviation, the lands of any person not mentioned in the books of reference, without his previous consent in writing, unless the name of such person shall have been omitted by mistake, and the fact that such omission happened from mistake shall have been certified in manner herein-before provided.

Undertakers
subject to
provisions of
this and the
special Act,
may execute
the works
herein named.

12. Subject to the provisions and restrictions in this and the special Act, and any Act incorporated therewith, the undertakers may execute any of the following works for constructing the waterworks; (that is to say,)

They may enter upon any lands and other places described on the said plans and in the said books of reference, and take levels of the same, and set out such parts thereof as they shall think necessary, and dig and break up the soil of such lands, and trench and sough the same, and remove or use all earth, stone, mines, minerals, trees, or other things dug or gotten out of the same:

They may from time to time sink such wells or shafts, and make, maintain, alter, or discontinue such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings, upon the lands and streams authorised to be taken by them, as they shall think proper, for supplying the inhabitants of the town or district within the prescribed limits with water:

They may from time to time divert and impound the water from the streams mentioned for that purpose in the special Act, or the said plans or books of reference, and alter the course of any such streams, not being navigable, and also take such waters as may be found in and under or on the lands to be taken for constructing the works:

Undertakers
to make com-
pensation for
damages.

Provided always, that in the exercise of the said powers the undertakers shall do as little damage as can be, and in all cases where it can be done shall provide other watering places, drains, and channels, for the use of adjoining lands, in place of any such

as shall be taken away or interrupted by them, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

13. Every person who shall wilfully obstruct any person acting under the authority of the undertakers in setting out the line of the works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding five pounds for every such offence.

Penalty for obstructing construction of works.

14. After the streams or supplies of water hereby or by the special Act authorized to be taken by the undertakers shall have been so taken, every person who shall illegally divert or take the waters supplying or flowing into the streams so taken, or any part thereof, or who shall do any unlawful act whereby the said streams or supplies of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him, on being required so to do by the undertakers so as to restore the said waters to the state in which they were before such act, shall forfeit to the undertakers any sum which shall be awarded in England or Ireland by two justices, and in Scotland by the sheriff, not exceeding five pounds for every day during which the said supply of water shall be diverted or diminished by reason of any act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the undertakers for any damage which they may sustain by reason of their supply of water being diminished; and the payment of the sum so forfeited shall not bar or affect the right of the undertakers to bring or raise an action at law against such person for the damage so committed.

Penalty for illegally diverting water.

15. Provided always, that nothing herein contained shall prevent the owners and occupiers for the time being of lands through or by which such streams shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of the special Act, unless they shall have received compensation in respect of their right of so using such water.

Reservation of rights of owners to use streams unless they have received compensation.

And with respect to the construction of works for the accommodation of lands adjoining the waterworks, be it enacted as follows:

Accommodation works

16. Where by the special Act the undertakers shall be required to erect any works for making good the interruption caused to any lands adjoining or near the waterworks, or otherwise for the accommodation of such lands, then if any difference shall arise respecting the construction of any such accommodation works, or the kind or size or sufficiency thereof, or respecting the maintenance thereof, the same shall be determined in England or

Differences as to construction of accommodation works.

Ireland by two justices, and in Scotland by the sheriff, and such justices or sheriff shall also appoint the time within which such accommodation works shall be begun and finished by the undertakers.

If undertakers fail to execute such works, persons aggrieved may perform the same.

17. If the undertakers shall for fourteen days next after the time appointed by such justices or sheriff for the beginning of any such accommodation works fail to begin such works, or, having begun such works, fail diligently to execute the same in a sufficient manner, the person aggrieved by such failure may execute such works or repairs; and the reasonable expences thereof shall, on demand, be repaid by the undertakers to the person by whom the same shall so have been executed; and if there be any dispute about the amount or nature of such expences, the same shall be settled in England or Ireland by two justices, and in Scotland by the sheriff.

Mines.

Undertakers not entitled to mines, unless expressly purchased.

And with respect to mines, be it enacted as follows :

18. The undertakers shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the waterworks, unless the same shall have been expressly purchased, and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Map and plan of underground works to be made, and corrected from time to time.

19. The undertakers shall from time to time, within six months from the time at which any pipes, conduits, or underground works shall have been laid down or formed by them, cause a survey and map to be made of the district within which any such pipes or underground works shall be laid, on a scale not less than one foot to a mile, and shall cause to be marked thereon the course and situation of all existing pipes or conduits for the collection, passage, or distribution of water and underground works belonging to them, in order to show all such underground works within the said district, and shall, within six months from the making of any alterations or additions, cause the said map to be from time to time corrected, and such additions made thereto as may show the line and situation of all such pipes, conduits, and underground works as may be laid down or formed by them from time to time after the passing of the special Act; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the office of the undertakers, and shall be open to the inspection of all persons interested in the same within the said district.

Copies of such map or plan to be deposited with clerk of the peace, &c.

20. The undertakers shall from time to time, within three months from the time at which any such map or plan, or any such correction thereof or addition thereto, shall have been made as aforesaid, deposit with the clerks of the peace in England or

Ireland, and with the sheriff clerks in Scotland, of every county, and the town clerk of every burgh in Scotland, in which such district or any part thereof may be situate, and also with the parish clerks of the several parishes in England, and clerks of the union of the several parishes in Ireland, and the schoolmaster of the several parishes in Scotland, in which such underground works shall be situate, copies of the said map or plan, with all such particulars and all such corrections and additions as aforesaid, so far as relates to such counties, burghs, and parishes respectively.

21. The said clerks of the peace, sheriff clerks, and town clerks, parish clerks, clerks of the union, and schoolmasters, shall receive the said copies of the said map and plan respectively, and shall keep the same, and shall allow all persons interested to inspect the same, and take copies or extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of maps and plans deposited under the Parliamentary Documents Deposit Act, 1837.

Clerks of the peace, &c. to receive and keep copies of the map, &c., and allow inspection.

7 Will. 4. & 1 Vict. c. 83.

22. Except where otherwise provided for by agreement between the undertakers and other parties, if the owner, lessee, or occupier of any mines or minerals lying under the reservoirs or buildings belonging to the undertakers, or under any of their pipes or works which shall be under ground and shall be described in the map or plan which shall be so kept and deposited as herein-before mentioned, or within the prescribed distance, if any, and if no distance be prescribed within forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give the undertakers notice in writing of his intention so to do, thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the undertakers to cause such mines to be inspected by any person appointed by them for the purpose, and if it appear to the undertakers that the working of such mines or minerals is likely to damage the said works, and if they be willing to make compensation for such mines to such owner, lessee, or occupier thereof, then he shall not work the same; and if the undertakers and such owner do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

As to working of mines lying near the works.

23. If before the expiration of such thirty days the undertakers do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines, and to drain the same, by means of engines or otherwise, as if this Act and the special Act had not been passed, so that no wilful damage be done to the said works, and so that the said mines be not worked in an unusual manner; and if any damage or obstruction be occasioned to the works of the undertakers by the working of such mines in an unusual manner, the same shall be forthwith repaired or removed, (as the case may require,) and such damage made good

If undertakers do not state their willingness to treat for payment of compensation, owner may work the mines.

by the owner, lessee, or occupier of such mines or minerals, and at his own expence; and if such repair or removal be not forthwith done, or if the undertakers shall so think fit, without waiting for the same, to be done by such owner, lessee, or occupier, it shall be lawful for the undertakers to execute the same, and recover from such owner, lessee, or occupier the expence occasioned thereby, by action in any of the superior courts.

Mining communications.

24. If the working of any such mines under the said works of the undertakers or within the above-mentioned distance therefrom be prevented as aforesaid by reason of apprehended injury to such works, it shall be lawful for the respective owners, lessees, and occupiers of such mines to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata the working whereof shall be so prevented as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, and where no dimensions are prescribed eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the said works so as to injure the same.

Undertakers to make compensation to owner, lessee, or occupier of mines for expences incurred by severance of mines, or by interruptions of or restrictions on works, and for minerals not obtained.

25. Except where otherwise provided for by agreement, the undertakers shall from time to time pay to the owner, lessee, or occupier of any mines of coal, ironstone, and other minerals extending so as to lie on both sides of any reservoirs, buildings, pipes, conduits, or other works, all such additional expences and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands over such mines or minerals by such reservoirs or other works, or of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of the same being worked under the restrictions contained in this or the special Act, and for any mines or minerals not purchased by the undertakers which cannot be obtained by reason of making and maintaining the said works, or by reason of such apprehended injury from the working thereof as aforesaid; and if any dispute or question shall arise between the undertakers and such owner, lessee, or occupier as aforesaid touching the price of such materials, the same shall be settled by arbitration in such manner as is provided by the Lands Clauses Consolidation Act, if the undertaking shall be situate in England or Ireland, and by the Lands Clauses Consolidation (Scotland) Act, if the undertaking shall be situate in Scotland.

Disputes to be settled by arbitration.

8 & 9 Vict.
cc. 18, 19.

Power to undertakers to enter and inspect the working of mines, after giving notice of the same.

26. For better ascertaining whether any such mines are being worked or have been worked so as to damage the said works, it shall be lawful for the undertakers, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the said works are situate, and wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith,

and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the said works to the parts of such mines which are being worked or about to be worked.

27. Nothing in this or the special Act shall prevent the undertakers from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the water-works, in case the same had not been constructed or maintained by virtue of this Act or the special Act.

Nothing to prevent undertakers from being liable to actions for injury done to mines.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows:

Laying of pipes.

28. The undertakers, under such superintendence as is herein-after specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers.

Power to break up streets, &c. under superintendence, and to open drains, and to lay pipes, &c.

29. Provided always, that nothing herein contained shall authorize or empower the undertakers to lay down or place any pipe, conduit, service pipe, or other work in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the undertakers at any time may enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act, or any other Act of Parliament, and may repair or alter any pipe so laid down.

Undertakers not to enter on private land without consent.

30. Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Notice to be served on persons having control, &c. before breaking up streets or opening drains.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

31. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons, or their officer.

Streets, &c. broken up to be reinstated without delay.

32. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept thereagainst, every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in reinstating streets, &c.

33. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the undertakers are authorized to perform such works without any superintendence or notice, or, if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish

occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

34. If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expence of executing the same shall be repaid to such persons by the undertakers; and such expences may be recovered in the same way as damages are recoverable under this and the special Act.

In case of delay, persons having control of streets, &c. may reinstate them.

And with respect to the supply of water to be furnished by the undertakers, be it enacted as follows :

Supply of water.

35. The undertakers shall provide and keep in the pipes to be laid down by them a supply of pure and wholesome water, sufficient for the domestic use of all the inhabitants of the town or district within the limits of the special Act, who, as hereinafter provided, shall be entitled to demand a supply, and shall be willing to pay water rate for the same; and such supply shall be constantly laid on at such a pressure as will make the water reach the top story of the highest houses within the said limits, unless it be provided by the special Act that the water to be supplied by the undertakers need not be constantly laid on under pressure; and the undertakers shall cause pipes to be laid down and water to be brought to every part of the town or district within the limits of the special Act whereunto they shall be required by so many owners or occupiers of houses in that part of the town or district as that the aggregate amount of water rate payable by them annually, at the rates specified in the special Act, shall be not less than one tenth part of the expence of providing and laying down such pipes; provided that no such requisition shall be binding on the undertakers, unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for three successive years at least

Constant supply of water to be kept for domestic use of all inhabitants entitled to demand a supply.

36. If for twenty-eight days after demand in writing made to the undertakers, and tender made of an agreement, signed by such number of owners or occupiers as aforesaid, to take and pay for a supply of water for three years or more, the undertakers shall refuse or neglect to lay down pipes in the manner

Penalty for neglect to lay pipes for supply of water for domestic use on demand.

herein-before directed, and to provide such supply of water as aforesaid or as provided by the special Act, they shall forfeit to each of such owners and occupiers the amount of rate which he would be liable to pay under such agreement, and also the further sum of forty shillings for every day during which they shall refuse or neglect to lay down such pipes, or to provide such supply of water: Provided always, that the undertakers shall not be liable to any penalty for not supplying water, if the want of such supply shall arise from frost, unusual drought, or other unavoidable cause or accident.

Supply of water to be kept for cleansing sewers, drains, &c. and for other public purposes.

37. In all the pipes to which any fire-plug shall be fixed the undertakers shall provide and keep constantly laid on, unless prevented by frost, unusual drought, or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes; (that is to say,) for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public pumps, baths, or washhouses, that may be established for the free use of the inhabitants, or paid for out of any poor rates or borough rates levied within the limits of the special Act; and such supply shall be provided at such rates, in such quantities, and upon such terms and conditions, as may be agreed upon by the town commissioners and the undertakers, or, in case of disagreement, as shall be settled in England or Ireland by two justices, and in Scotland by the sheriff, until in either case an inspector shall have been appointed, and after the appointment of such inspector, by the inspector so appointed.

Fire-plugs.

Undertakers to affix public fire-plugs in mains.

38. The undertakers, at the request of the town commissioners, shall fix proper fire-plugs in the main and other pipes belonging to them, at such convenient distances, not being more than the prescribed distance, or, if no distance be prescribed, not more than one hundred yards from each other, and at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the special Act; and in case of any difference of opinion as to the proper position or number of such fire-plugs, it shall be settled by such inspector as aforesaid, when appointed, and in the meantime by two justices in England or Ireland, and by the sheriff in Scotland.

Undertakers to repair fire-plugs and deposit keys thereof at engine houses, &c.

39. The undertakers shall from time to time renew and keep in effective order every such fire-plug; and as soon as any such fire-plug is completed they shall deposit a key thereof at each place within the limits of the special Act where any public fire engine is kept, and in such other places as may be appointed by the town commissioners, and shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated, showing its situation, which notice the undertakers may put up on any house or building in such street.

Expence of fire-plugs, &c.

40. The cost of such fire-plugs, and the expence of fixing, placing, and maintaining the same in repair, and of providing

such keys as aforesaid, shall be defrayed by the town commissioners.

41. The undertakers shall, at the request and expence of the owner or occupier of any work or manufactory situated in any street in which there shall be a pipe of the undertakers, place and maintain in effective order a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such work or manufactory.

Fire-plugs to be placed near manufactories at request, &c. of owners.

42. The undertakers shall at all times keep charged with water, under such pressure as aforesaid, all their pipes to which fire-plugs shall be fixed, unless prevented by frost, unusual drought, or other unavoidable cause or accident, or during necessary repairs, and shall allow all persons at all times to take and use such water for extinguishing fire, without making compensation for the same.

Pipes to which fire-plugs are affixed shall be kept charged; and water may be taken to extinguish fires without charge.

43. If, except when prevented as aforesaid, the undertakers neglect or refuse to fix, maintain, or repair such fire-plugs, or to furnish to the town commissioners a sufficient supply of water for the public purposes aforesaid, upon such terms as shall have been agreed on or settled as aforesaid, or if, except as aforesaid, they neglect to keep their pipes charged under such pressure as aforesaid, or neglect or refuse to furnish to any owner or occupier entitled under this or the special Act to receive a supply of water during any part of the time for which the rates for such supply have been paid or tendered, they shall be liable to a penalty of ten pounds, and shall also forfeit to the town commissioners, and to every person having paid or tendered the rate, the sum of forty shillings for every day during which such refusal or neglect shall continue after notice in writing shall have been given to the undertakers of the want of supply.

Penalty for neglect, &c. to fix, &c. fire-plugs, or to furnish supply of water.

And with respect to the communication pipes to be laid by the undertakers, be it enacted as follows:

Pipes to be laid by the undertakers.

44. The undertakers shall, upon the request of the owner of any dwelling house in any street in which pipes shall have been laid down by them, the annual value of which house shall not exceed ten pounds, or upon request of the occupier, with the consent in writing of the owner, or reputed owner, of any such house, or of the agent of such owner, and upon payment or tender of the proportion of water rate in respect of such house by this or the special Act, made payable in advance, lay down communication pipes and other necessary works for the supply of such house with water for domestic or other purposes, and shall keep the same in repair, and thereupon the occupier of such house shall be entitled to have a sufficient supply of water for his domestic purposes from the undertakers; and the undertakers may charge for such pipes and works, in addition to the water rate, such reasonable annual rent as shall be agreed upon, or, in case of dispute, as shall be settled by such inspector as

Undertakers to lay down communication pipes, on request of occupier and with consent of owners.

aforesaid, when appointed, and in the meantime as shall in England or Ireland be settled by two justices, and in Scotland by the sheriff; and such rent shall be chargeable on and recoverable from the occupier, or, in his default, from the owner of such house, at the same times and in the same manner as water rates; and such pipes and other works shall not be subject to distress or to the landlord's hypothec for rent, nor to be taken in execution under any process of a court of law or equity, or under any fiat or sequestration in bankruptcy, against such occupier or against such owner, unless he shall have become the proprietor of the said pipes and works under the provisions herein-after contained.

Penalty on undertakers for neglect, &c. to lay communication pipes.

45. If, upon such request and consent, and upon tender or payment of such proportion of rate as aforesaid, the undertakers for seven days neglect or refuse to lay down such communication pipes or other works, they shall be liable to forfeit to the person so making such request the sum of five pounds, and a further sum of forty shillings for every day during which such refusal or neglect shall continue after seven days from the making of such request and tender as aforesaid.

On non-payment of rate, or if house be unoccupied, undertakers may remove pipes, &c. provided by them.

46. If the occupier for the time being of the house in which any such communication pipes or other works and engines shall have been laid down by the undertakers refuse to pay for a supply of water, or if such house be unoccupied for twelve months, the undertakers may demand from the owner thereof payment of the amount of the principal money invested by them in providing and laying down such communication pipes and other works and engines; and if such owner, after ten days notice given to him by the undertakers, neglect or refuse to pay such principal money, the undertakers may enter the house and remove such pipes and other works; and the balance of such principal money, after deducting the value of such pipes and other works, with all arrear of rent for such pipes and works, shall, in default of payment, be recovered, with the costs incurred, from the owner or from the occupier for the time being, in the same manner as water rates are directed by this or the special Act to be recovered: Provided always, that no greater sum shall be recovered from any such occupier than the amount of rent for the time being owing by him, unless he refuse to discover the amount of rent owing by him; and that every such occupier shall be entitled to deduct from the amount of rent payable by him the sum so recovered from him, or which he shall have paid on demand.

Owner to be at liberty to purchase the pipes.

47. The owner or reputed owner of any house where any such communication pipes or other works shall have been laid down by the undertakers may at any time pay off the amount then due to the undertakers in respect of the costs of providing and laying down such pipes and works, and all rent at that time due in respect thereof, and thereupon such pipes and works shall

become the property of such owner, and all further rent in respect thereof shall cease to accrue to the undertakers.

And with respect to the communication pipes to be laid by the inhabitants, be it enacted as follows :

Pipes to be laid by the inhabitants.

48. Any owner or occupier of any dwelling house, or part of a dwelling house within the limits of the special Act who shall wish to have water from the waterworks of the undertakers brought into his premises, and who shall have paid or tendered to the undertakers the portion of water rate in respect of such premises by this or the special Act directed to be paid in advance, may open the ground between the pipes of the undertakers and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any leaden or other pipes from such premises, to communicate with the pipes of the undertakers, such pipes to be of a strength and material to be approved of by the undertakers, or, in case of dispute, to be settled in England or Ireland by two justices, and in Scotland by the sheriff, or in either case by the inspector to be appointed as aforesaid : Provided always, that every such owner or occupier shall, before he begins to lay any such pipe, give to the undertakers fourteen days notice of his intention to do so.

Power to inhabitants to lay service pipes from houses to pipes of undertakers

49. Before any pipe is made to communicate with the pipes of the undertakers, the person intending to lay such pipe shall give two days notice to the undertakers of the day and hour when such pipe is intended to be made to communicate with the pipes of the undertakers ; and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the undertakers, unless such surveyor or officer fail to attend at the time mentioned in the said notice ; and in case of any dispute as to the manner in which such pipe shall be so made to communicate, it shall in England or Ireland be settled by two justices, and in Scotland by the sheriff, or in either case by the inspector to be appointed as aforesaid.

Communication with the pipes of the undertakers to be made under the superintendence of their surveyor.

50. The bore of any such pipe as last aforesaid shall not exceed the prescribed limits, and where no limit shall be prescribed it shall not exceed half an inch, except with the consent of the undertakers.

Bore of service pipes.

51. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same, after having first given six days notice in writing to the undertakers of his intention so to do, and of the time of such proposed removal, and every such person shall make compensation to the undertakers for any injury or damage to their pipes or works which may be caused by such removal ; and every person who shall remove any such pipe or other works without giving such notice as aforesaid shall forfeit to the undertakers a sum not exceeding five pounds, over and above the

Service pipes may be removed, after giving notice.

Penalty for removing pipes without notice.

damage which he may be found liable to pay in any action at law, at the suit of the undertakers, for the damage done to their pipes or works.

Power to inhabitants to break up pavements, &c.

52. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipe of the undertakers and his house, building, or premises, and any sewer or drain therein, for any such purpose as aforesaid, doing as little damage as may be, and making compensation for any damage done in the execution of any such work: Provided always, that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restriction, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the undertakers are subject to by virtue of this or the special Act.

Right of owners or occupiers to supply of water for domestic purposes.

53. Every owner and occupier of any dwelling house or part of a dwelling house within the limits of the special Act shall, when he has laid such communication pipes as aforesaid, and paid or tendered the water rate payable in respect thereof, according to the provisions of this and the special Act, be entitled to demand and receive from the undertakers a sufficient supply of water for his domestic purposes.

Protection of water.

And with respect to waste or misuse of the water supplied by the undertakers, be it enacted as follows:

Persons using water not required to be laid on at high pressure to provide cisterns, &c.

54. If by the special Act it be provided that the water to be supplied by the undertakers need not be constantly laid on under pressure, every person supplied with water shall, when required by the undertakers, provide a proper cistern to hold the water with which he shall be so supplied, with a ball and stop cock in the pipe bringing the water from the works of the undertakers to such cistern, and shall keep such cistern, ball, and stop cock in good repair, so as effectually to prevent the water from running to waste; and in case any such person shall, when required by the undertakers, neglect to provide such cistern, ball, or stop cock, or to keep the same in good repair, the undertakers may cut off the pipe or turn off the water from the premises of such person until such cistern and ball and stop cock shall be provided or repaired, as the case may require.

Penalty for neglect.

Penalty for suffering cistern, &c. to be out of repair, so that water is wasted.

55. [1] Every person supplied with water by the undertakers who shall suffer any such cistern, pipe, ball, or stop cock to be out of repair, so that the water supplied to him by the undertakers shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

[1 Ss. 55, 59 are rep., so far as they relate to special Acts with which 26 & 27 Vict. c. 93. is incorporated, 38 & 39 Vict. c. 66. (S.L.R.)]

56. The undertakers may repair any such cistern, pipe, ball, or stop cock, so as to prevent any such waste of water, and the expences of such repair shall be repaid to them by the person so allowing the same to be out of repair, and may be [1] received as damages. Undertakers may repair cisterns, &c.

57. The surveyor, or any other person acting under the authority of the undertakers, may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house or premises supplied with water by virtue of this or the special Act in order to examine if there be any waste or misuse of such water; and if such surveyor or other person at any such time be refused admittance into such dwelling house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the undertakers may turn off the water supplied by them from such house or other premises. Power to undertakers surveyor to enter houses to inspect, &c.

58. Every owner or occupier of any tenement supplied with water under this or the special Act who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the undertakers, and the pipes belonging to him be, without his default, out of repair, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds. Penalty for allowing persons to use waters supplied by undertakers.

59. [2] Every person who, not having agreed to be supplied with water by the undertakers, shall take any water from any reservoir, watercourse, or conduit belonging to the undertakers, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the undertakers, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the undertakers for every such offence a sum not exceeding ten pounds. Penalty for taking water belonging to undertakers without agreement.

60. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the undertakers, or shall flush or draw off the water from the reservoirs or other works of the undertakers, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds. Penalty for destroying valves, drawing off water, &c.

And with respect to the provision for guarding against fouling the water of the undertakers, be it enacted as follows: Fouling the water.

61. Every person who shall commit any of the offences next herein-after enumerated shall for every such offence forfeit to Penalties for causing the water of the

[1] *Sic* in Parliament Roll.]

[2] Ss. 55, 59 are rep., so far as they relate to special Acts with which 26 & 27 Vict. c. 93. is incorporated, 38 & 39 Vict. c. 66. (*S.L.R.*)]

undertakers to be fouled, &c. the undertakers a sum not exceeding five pounds; (that is to say,)

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or wash, throw, or cause to enter therein any dog or other animal:

Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing:

Every person who shall cause the water of any sink, sewer, or drain, steam engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or shall do any other act whereby the water of the undertakers shall be fouled:

And every such person shall forfeit a further sum of twenty shillings for each day (if more than one) that such last-mentioned offence shall be continued.

Penalty for permitting substances produced in making gas to flow into the streams or works of the undertakers.

62. Every person making or supplying gas within the limits of the special Act who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the undertakers, or into any drain communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, or waterworks shall be fouled, shall forfeit to the undertakers for every such offence the sum of two hundred pounds; and such penalty shall be recovered, with full costs of suit, in any of the superior courts; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it has ceased.

Daily penalty during the continuance of the offence.

63. In addition to the said penalty of two hundred pounds, and whether such penalty have been recovered or not, the person making or supplying gas as aforesaid shall forfeit to the undertakers the sum of twenty pounds, to be recovered in like manner, for each day during which such washing or substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the undertakers.

Penalty on gas makers causing water to be fouled.

64. Whenever the water supplied by the undertakers shall be fouled by the gas of any person making or supplying gas within the limits of the special Act, such person shall forfeit to the undertakers for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each

day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

65. For the purpose of ascertaining whether the water of the undertakers be fouled by the gas of any person making or supplying gas within the limits of the special Act, the undertakers may dig up the ground, and examine the pipes, conduits, and works of the persons making or supplying gas; provided that before proceeding so to dig and examine the undertakers shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examination is intended to take place, and they shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place, and they shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as herein-before provided with respect to roads and pavements broken up by them for laying their pipes.

Power to open ground and examine gas pipes, to ascertain whether water is being fouled by gas.

66. If upon such examination it appear that such water has been fouled by any gas belonging to such person, the expences of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appear that the water has not been fouled by the gas of such person, then the undertakers shall pay all the expences of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Expences to abide the result of the examination.

67. The amount of the expences of every such examination and repair, and any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are directed to be ascertained and recovered.

Recovery of expences.

And with respect to the payment and recovery of the water rates, be it enacted as follows:

Water rates.

68. The water rates, except as herein-after and in the special Act mentioned, shall be paid by and be recoverable from the person requiring, receiving, or using the supply of water, and shall be payable according to the annual value of the tenement supplied with water, and if any dispute arise as to such value the same shall be determined by two justices.

Rates to be recoverable from person supplied with water.

69. When several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply

Where several houses are supplied by one pipe, each shall pay as if

separately
supplied.

of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the undertakers by a separate pipe.

Rates to be
paid quarterly,
in advance.

70. The rates shall be paid in advance by equal quarterly payments, in England or Ireland, at Christmas Day, Lady Day, Midsummer Day, and Michaelmas Day, and in Scotland at Martinmas, Candlemas, Whitsuntide, and Lammas, and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the undertakers, or at the time when the agreement to take water from the undertakers is made.

Parties giving
notice to dis-
continue use
of water, or
removing, to
pay to the
next quarter
day.

71. The occupier of any dwelling house or part of a dwelling house liable to the payment of any water rate who shall give notice of his intention to discontinue the use of the water supplied by the undertakers, or who shall remove from his dwelling between any two quarterly days of payment, shall pay the water rate in respect of such dwelling house or part of a dwelling house for the quarter ending on the quarterly day of payment next after his quitting the same or giving such notice.

Owners of
houses not
exceeding 10s.
rent to be
liable to
water rates.

72. The owners of all dwelling houses or parts of dwelling houses occupied as separate tenements, the annual value of which houses or tenements shall not exceed the sum of ten pounds, shall be liable to the payment of the rates instead of the occupiers thereof; and the powers and provisions herein or in the special Act contained for the recovery of rates from occupiers shall be construed to apply to the owners of such houses and tenements; and the person receiving the rents of any such house or tenement as aforesaid from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement.

Sums paid
by owner
recoverable as
rent from
tenant.

73. Provided always, that when any owner shall pay any such rate in respect of any such dwelling house or part of a dwelling house which shall be in the occupation of any tenant under any lease or agreement made prior to the passing of the special Act, such tenant shall repay to the owner all sums which shall be so by him paid during the continuance of such lease, unless it have been agreed that the owner shall pay the water rates in respect of such dwelling house or part of a dwelling house; and every such sum of money payable by the tenant to the owner, under the provision herein-before contained, may be recovered, if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

If rates are
not paid, water
may be cut off,
and rates and
expenses
recovered.

74. If any person supplied with water by the undertakers, or liable as herein or in the special Act provided to pay the water rate, neglect to pay such water rate at any of the said times of payment thereof, the undertakers may stop the water

from flowing into the premises in respect of which such rate is payable, by cutting off the pipe to such premises, or by such means as the undertakers shall think fit, and may recover the rate due from such person, if less than twenty pounds, with the expences of cutting off the water, and costs of recovering the rate, in the same manner as any damages for the recovery of which no special provision is made are recoverable by this or the special Act; or if the rate so due amount to twenty pounds or upwards, the undertakers may recover the same, with the expences of cutting off the water, by action in any court of competent jurisdiction.

And with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, be it enacted as follows: *Profits of the undertakers.*

75. The profits of the undertaking to be divided among the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate. *Profits of the undertakers to be limited.*

76. If the clear profits of the undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed to a sum equal to one tenth part of the nominal capital of the undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the undertakers; and if such fund be at any time reduced, it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen. *If profits exceed the amount limited, excess to be invested and form a reserved fund.*

77. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified in England or Ireland by two justices, and in Scotland by the sheriff, that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim within the meaning of this or the special Act. *Reserved fund not to be resorted to to meet an extraordinary claim, except on certificate.*

78. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one tenth part of the nominal *When fund amounts to prescribed sum*

interest to be applied to purposes of the undertaking.

capital, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the undertaking to which the profits thereof are applicable.

If profits are less than the prescribed rate, deficiency to be supplied from reserved fund.

79. If in any year the profits of the undertaking divisible amongst the undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

If profits are more than the amount prescribed a rateable reduction to be made in the price of water.

80. In England or Ireland the court of quarter sessions, and in Scotland the sheriff of such county, may, on the petition of any two water-rate payers within the limits of the special Act, appoint some accountant or other competent person, not being a proprietor of any waterworks, to examine and ascertain, at the expense of the undertakers, the actual state and condition of the concerns of the undertakers, and make report thereof to the said court at the then present or some following sessions, or to the sheriff (the amount of such expence to be determined by the said court or sheriff); and the said court or sheriff may examine any witnesses upon oath touching the truth of the said accounts, and the matters therein referred to; and if it thereupon appear to the said court or sheriff that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the rates for water to be furnished by them as in the judgment of the said court or sheriff shall be proper, but so as such rates, when reduced, shall insure to the undertakers, regard being had to the amount of profit before received, a profit as near as may be to the prescribed rate.

Costs of groundless petition.

81. Provided always, that if, in the case of any petition so presented, it appear to the said court or sheriff that there was no sufficient ground for presenting the same, the said court or sheriff may, if they or he think fit, order the petitioner to pay the whole or any part of the costs of or incident to such petition, (the amount thereof to be determined by the said court or sheriff), and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this or the special Act.

Penalty on undertakers refusing to produce books, vouchers, &c.

82. If the undertakers shall, for seven days after being required to produce to the said court or sheriff, or to the said accountant or other person as aforesaid, any books of account, or other books, bills, receipts, vouchers, or papers relating to their pecuniary affairs, refuse or neglect to produce such books, bills, receipts, vouchers, or papers, they shall forfeit the sum of one hundred pounds for every such refusal or wilful neglect

and the further sum of ten pounds for every day during which such refusal or wilful neglect shall continue after the expiration of the said seven days; such respective penalties to be recovered by any person who will sue for the same, with full costs of suit, in any of the superior courts.

83. And with respect to the yearly receipt and expenditure of the undertakers, be it enacted, that the undertakers shall, in each year after they have begun to supply water under this or the special Act, cause an account in abstract to be prepared of the whole receipt and expenditure of all rates or other monies levied under the powers of this or the special Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the undertakers, and also by the auditors thereof, if any; and a copy of such annual account shall be sent, free of charge, to the clerk of the peace for the county in which the waterworks are situated, if the waterworks are situated in England or Ireland, and if the waterworks are situated in Scotland, to the sheriff clerk of such county, on or before the thirty-first day of January in each year, under a penalty of twenty pounds for each default; and the copy of such account so sent to the said clerk shall be kept by him, and shall be open to inspection by all persons at all seasonable hours, on payment of one shilling for each inspection.

Account.

Annual
account to be
made up by
undertakers.

[*S. 84 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, be it enacted as follows:

*Recovery of
damages and
penalties.*

85. If the waterworks be in England or Ireland, the clauses of the Railway Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and if the waterworks be in Scotland, the clauses of the Railway Clauses Consolidation Act (Scotland), 1845, with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the waterworks and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

Railways
Clauses Acts,
as to damages,
&c. to be in-
corporated
with this and
the special
Act.

8 & 9 Vict. cc.
20, 33.

[*S. 86 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

87. All things herein or in the special Act, or any Act incorporated therewith, authorized or required to be done by two justices may and shall be done in England and Ireland by any one magistrate having by law authority to act alone for

Acts which
may be done
by one
magistrate.

any purpose with the powers of two or more justices and in Scotland by the sheriff of any county, or his substitute.

Penalties, &c.
in metropolitan
police district.

88. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied, by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expences, as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

2 & 3 Vict.
c. 71.

False evidence.

89. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Access to
special Act.

And with respect to access to the special Act, be it enacted as follows:

Copies of
special Act to
be kept by
undertakers in
their office, and
deposited with
the clerks of
the peace, &c.,
and to be open
to inspection.

90. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to Her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England or Ireland, and of the sheriff clerk in Scotland, of the county in which the undertaking is situated, a copy of such special Act, so printed as aforesaid; and the said clerk of the peace and sheriff clerk shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837.

7 Will. 4. &
1 Vict. c. 83.

91. If the undertakers fail to keep or deposit any of the said copies of the special Act, as herein-before mentioned, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited. Penalty on undertakers failing to keep or deposit such copies.

92. And be it enacted, that nothing in this Act contained shall be deemed to exempt the undertakers from the provisions of an Act passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled "An Act for better paving, improving, and regulating the streets of the Metropolis, and removing and preventing nuisances and obstructions therein," or from the laws of sewers for the time being in force within ten miles from the Royal Exchange in the city of London. Saving as to 57 Geo. 3. c. xxix., &c.

93. Nothing herein or in the special Act contained shall be deemed to exempt the undertakers from any general Act relating to waterworks, or any Act for improving the sanitary condition of towns and populous districts, which may be passed in the same session of Parliament in which the special Act is passed, or any future session of Parliament. Saving as to future Acts.

[S. 94 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XXI.

AN ACT to regulate the Stations of Soldiers during Parliamentary Elections.

[23rd April 1847.]

[*Preamble.*]

[S. 1 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

2. On every day appointed for the nomination or for the election or for taking the poll for the election of a member or members to serve in the Commons House of Parliament no soldier within two miles of any city, borough, town, or place where such nomination or election shall be declared or poll taken shall be allowed to go out of the barrack or quarters in which he is stationed, unless for the purpose of mounting or relieving guard, or for giving his vote at such election; and every soldier allowed to go out for any such purpose within the limits aforesaid shall return to his barrack or quarters with all convenient speed as soon as his guard shall have been relieved or vote tendered. Soldiers to remain in barracks or quarters during elections.

3. When and so often as any election of any member or members to serve in the Commons House of Parliament shall be appointed to be made, the clerk of the crown in chancery or other officer making out any new writ for such election shall, with all convenient speed after making out the said writ, give notice thereof to the Secretary at War . . . who shall, at Notice of elections to be given to Secretary at War, and commanding officers.

some convenient time before the day appointed for such election, give notice thereof in writing to the general officer commanding in each district of Great Britain, who shall thereupon give the necessary orders for enforcing the execution of this Act in all places under his command.

Saving as to
certain
soldiers.

4. Nothing in this Act contained shall be deemed to apply to any soldiers attending as the guards of her Majesty or any person of the royal family, or to the soldiers usually stationed or employed within the Bank of England.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XXVII.

AN ACT for consolidating in One Act certain Provisions usually contained in Acts authorising the making and improving of Harbours, Docks, and Piers.^[1]

[11th May 1847.]

[*Preamble.*]

Incorporation
with special
Act.

[1.] This Act shall extend only to such harbours, docks, or piers as shall be authorized by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act shall apply to the undertaking authorized thereby, so far as they are applicable to such undertaking, and shall, with the clauses of every other Act incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretation.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

“The special
Act”:

2. The expression “the special Act” used in this Act shall be construed to mean any Act which shall be hereafter passed authorizing the construction or improving of an harbour, dock, or pier, and with which this Act shall be incorporated; and the

“Prescribed”:

word “prescribed” used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word “prescribed” the expression “prescribed for that purpose in the special Act” had been used; and the expression “the prescribed limits” used with reference to the harbour, dock, or pier shall mean the distance measured from the harbour, dock, or pier, or other local limits (if any) beyond the harbour, dock, or pier, within which the powers of the harbour master, dock master, or pier master, for the regulation of the harbour, dock, or pier, shall by the special Act be

“The pre-
scribed
limits”:

[¹ Short title, “The Harbours, Docks, and Piers Clauses Act, 1847.” See s. 4.]

authorized to be exercised; and the expression "the lands" "The lands": shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof; the expression "the harbour, dock, or pier" shall mean the harbour, dock, or pier, and the works connected therewith, by the special Act authorized to be constructed; the expression "the harbour master" shall mean, with reference to any such harbour the harbour master, and with reference to any such dock the dock master, and with reference to any such pier the pier master, respectively appointed by virtue of this or the special Act, and with respect to all Acts authorized or required to be done by such harbour master, dock master, or pier master, shall include the assistants of every such harbour master, dock master, or pier master; and the expression "the undertakers" shall mean the persons by the special Act authorized to construct the harbour, dock, or pier, or otherwise carry into effect the purposes of the special Act with reference thereto.

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say.)

Interpretations
in this and the
special Act.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Number:

Words importing the masculine gender only shall include females:

Gender:

The word "person" shall include corporation, whether aggregate or sole:

"Person":

The word "lands" shall include messuages, lands, tenements, and hereditaments, or heritages, of any tenure:

"Lands":

The word "vessel" shall include ship, boat, lighter, and craft of every kind, and whether navigated by steam or otherwise:

"Vessel":

The word "master" when used in relation to any vessel, shall be understood to mean the person having the command or charge of the vessel for the time being:

"Master":

The word "owner," when used in relation to goods, shall be understood to include any consignor, consignee, shipper, or agent for sale or custody of such goods, as well as the owner thereof:

"Owner":

The word "goods" shall include wares and merchandize of every description, and all articles in respect of which rates or duties are payable under the special Act:

"Goods":

The word "rate" shall mean any rate or duty or other payment in the nature thereof payable under the special Act:

"Rate":

The expression "the collector of rates" shall mean the person appointed by the undertakers to collect the rates by the

"The collector
of rates":

special Act authorized to be levied by them, and shall include the assistants of such collector :

“ Month ” :

The word “ month ” shall mean calendar month :

“ Superior courts ” :

The expression “ superior courts,” where the matter submitted to the cognizance of the superior courts arises in England or Ireland, shall mean her Majesty’s superior courts of record at Westminster or Dublin, as the case may require, . . . and where such matter arises in Scotland, shall mean the Court of Session :

“ Oath ” :

The word “ oath ” shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath :

“ County ” :

The word “ county ” shall include any riling or other division of a county having a separate commission of the peace ; and in Scotland shall include any division of a county having a separate sheriff ; and shall also include county of a city and county of a town :

“ Justice ” :

The word “ justice ” shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises, and where such matter arises in respect of lands situate not wholly in any one jurisdiction, shall mean a justice acting for the place where any part of such lands shall be situate ; and where any matter shall be authorized or required to be done by two justices, the expression “ two justices ” shall be understood to mean two or more justices met and acting together :

“ Two justices ” :

“ Sheriff ” :

The word “ sheriff ” shall mean the sheriff depute of the county in Scotland in which the matter submitted to the cognizance of the sheriff arises, and shall include the substitute of such sheriff depute.

“ Quarter sessions ” :

The expression “ quarter sessions ” shall mean quarter sessions as defined in the special Act ; and if such expression be not there defined, it shall mean the general or quarter sessions of the peace which shall be held at the place nearest to the situation of the harbour, dock, or pier, for the county or place in which the harbour, dock, or pier or the principal office thereof, is situate, or for some division of such county having a separate commission of the peace :

Citing the Act.

And with respect to citing this Act, or any part thereof, be it enacted as follows :

Short title of this Act.

4. In citing this Act in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression, “ The “ Harbours, Docks, and Piers Clauses Act, 1847.”

Incorporation of parts of this Act in other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such

matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

And with respect to the construction of the harbour, dock, or pier, be it enacted as follows :

6. Where by the special Act the undertakers shall be empowered, for the purpose of constructing the harbour, dock, or pier, to take or use any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject, if the harbour, dock, or pier be situate in England or Ireland, to the provisions and restrictions contained in this Act and in the Lands Clauses Consolidation Act, 1845, and, if the harbour, dock, or pier be situated in Scotland, to the provisions and restrictions contained in this and in the Lands Clauses Consolidation (Scotland) Act, 1845; and the undertakers shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of this or the special Act, or injuriously affected by the construction of the works thereby authorized, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties by reason of the exercise as regards such lands of the powers vested in the undertakers by this or the special Act, or any Act incorporated therewith; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands Clauses Consolidation Acts for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the last-mentioned Acts shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof.

7. If any omission, mis-statement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described on the plans or books of reference relating to the harbour, dock, or pier deposited in compliance with the standing orders of either House of Parliament or in the schedule to the special Act, the undertakers, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by such proposed correction, may apply in England or Ireland to two justices, and in Scotland to the sheriff, for the correction thereof; and if it appear to such justices or sheriff that such omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars

Construction of harbour, dock, or pier.

—
Taking of lands for purposes of special Act to be subject to Lands Clauses Acts.

8 & 9 Vict. c. 18.

8 & 9 Vict. c. 19.

Correction of errors and omissions in plans, &c.

of any such omission, mis-statement, or wrong description; and such certificate shall, along with the other documents to which it relates, be deposited in England and Ireland with the clerk of the peace of the several counties in which the lands affected by such alteration are situate, and in Scotland with the sheriff clerk of such counties, and with the schoolmasters of the several parishes in which such lands are situate, and with the town clerk, if such lands be situate in a royal burgh; and thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate; and the undertakers may make the works in accordance with such certificate, as if such omission, mis-statement, or wrong description had not been made.

Works not to be proceeded with until plans of all alterations authorized by Parliament have been deposited.

8. The undertakers shall not commence the execution of the harbour, dock, or pier, unless they shall have previously deposited with the said clerks of the peace in England and Ireland, and with the sheriff clerk in Scotland, of every county in which the harbour, dock, or pier is situate, a plan and section of all such alterations from the original plan and section as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original plan and section, and shall also have deposited with the parish clerks of the several parishes in England, and the clerks of the unions of the parishes in Ireland, and the schoolmasters of the several parishes and the town clerk of any royal burgh in Scotland, in which such alterations shall have been authorized to be made, copies or extracts of or from such plans and sections as shall relate to such parishes and royal burghs respectively.

Clerks of the peace, &c. to receive plans of alterations, and allow inspection.

7 Will. 4 & 1 Vict. c. 83.

Certified copies of plans and alterations, &c. to be evidence.

9. The said clerks of the peace, sheriff clerks, parish clerks, clerks of unions, schoolmasters, and town clerks shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by the Parliamentary Documents Deposit Act, 1837.

10. True copies of the said plans and books of reference, or of any alteration or correction thereof or extract therefrom, certified by any such clerk of the peace or sheriff clerk, which certificate such clerk shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Undertakers, in constructing harbour, &c. not to deviate beyond limits defined upon plans.

11. The undertakers, in making the harbour, dock, or pier, shall not deviate from the line of the works laid down in the said plans more than the prescribed number of yards, and where no number of yards is prescribed not more than ten yards, nor in any case to any greater extent than the line of lateral

deviation described in the said plans with respect to such harbour, dock, or pier, nor take or use for the purpose of such deviation the lands of any person not mentioned in the books of reference, without his previous consent in writing, unless the name of such person have been omitted by mistake, and the fact that such omission proceeded from mistake have been certified in manner herein-before provided.

12. The undertakers shall not construct the harbour, dock, or pier, or any part thereof, or any works connected therewith, on any part of the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and reflows, without the previous consent of her Majesty to be signified in writing under the hands of two of the Commissioners of Woods, and of the Admiralty, to be signified in writing under the hand of the Secretary of the Admiralty, and then only according to such plan and under such restrictions and regulations as the said Commissioners of Woods and the Admiralty approve of, such approval being signified as last aforesaid; and where any such work shall have been constructed with such consent as aforesaid, the undertakers shall not at any time alter or extend the same, without obtaining previously to making any such alteration or extension, the like consents or approvals; and if any such work shall be commenced or completed without such consent and approval, the said Commissioners of Woods, or the Admiralty, may abate and remove the same, and restore the site thereof to its former condition, at the costs of the undertakers, and the amount of such costs shall be a debt due to the crown, and recoverable against the undertakers accordingly: Provided always, that if the conservancy of the navigable river shall legally belong to any person, the like consent and approval of such person shall also be necessary, in addition to the consents and approvals herein-before required; and if the right of property of or in the shore shall legally belong to any person, such right shall not be prejudiced, except so far as power to purchase the same shall be given by the special Act.

Consent of Commissioners of Woods, &c. and of the Admiralty, as to works on foreshore, &c.

13. If the undertakers propose to make any deviations from or alterations in the plans of their works deposited as aforesaid, they shall, before adopting and carrying such deviations or alterations into execution, submit the plans thereof to the Admiralty, and also to the said Commissioners of Woods; and no deviations from or alterations in the deposited plans shall be adopted by the undertakers unless approved by the Admiralty or the said Commissioners respectively, signified in manner aforesaid, or otherwise as they shall think proper.

Alterations in plans to be approved of by the Admiralty and the Commissioners of Woods, &c.

And with respect to the construction of works for the accommodation of the officers of Customs, be it enacted as follows:

Accommodation for custom house officers.

14. The undertakers, before they shall be entitled to take any rates in respect of the harbour, dock, or pier, if required so to do

Undertakers to erect watch-

house, boat-house, huts, and weighing materials, for custom house officers, and keep the same in repair.

by the Commissioners of her Majesty's Customs, or at any time thereafter when so required, shall erect on a suitable spot within or near the harbour, dock, or pier, to be approved of by the said commissioners, and always thereafter maintain, a watch-house and boat-house for the use of the tide surveyors of the Customs and their crew, of such size and materials and in such manner as shall be approved of by the said commissioners, and shall also, to the satisfaction of the said commissioners, provide from time to time a sufficient number of huts for the use of the officers of revenue, with all fit and necessary weighing materials; and shall at all times keep such watch-house, boat-house, huts, and weighing materials in good and sufficient repair.

Penalty on undertakers neglecting to repair or provide watch-house, &c.

15. If at any time such watch-house or boat-house or such huts or weighing materials shall be out of repair, or not provided as required by the said commissioners, and notice thereof be given to the undertakers, they shall repair or provide the same to the satisfaction of the said commissioners within three months after such notice, or in default thereof shall forfeit the sum of one hundred pounds for every month during which such watch-house, boat-house, huts, or weighing materials shall continue out of repair or be not provided, such penalty to be recovered in any of the superior courts against the undertakers as a debt due to the crown, and to be sued for by any officer of Customs, by the direction of the said commissioners.

Life-boats.

Life-boat, mortar, and rockets, to be provided by undertakers,

with tackle, crews, &c. for assistance of vessels in distress.

And with respect to life-boats, be it enacted as follows:

16. Unless it be provided by the special Act that the undertakers need not provide life-boats, the undertakers, before they shall be entitled to take any rates in respect of the harbour, dock, or pier, shall provide and always thereafter maintain in good repair an efficient and well-appointed life-boat, a Manby's mortar, and a sufficient supply of Carte's rockets, or such other mortar and rockets as the Admiralty, by writing under the hand of the Secretary of the Admiralty, shall approve of, with all necessary tackle, and a competent crew and proper persons for the effectual working thereof, for the assistance and succour of vessels in distress; and the undertakers shall cause such life-boat, mortar, and rockets to be stationed at or upon the most advanced works of the harbour, dock, or pier, or such other place as the Admiralty shall approve of as aforesaid, and to be used on all necessary occasions.

Penalty for not providing life-boat, &c.

17. The undertakers shall be liable to a penalty not exceeding twenty pounds for every twenty-four hours during which the said life-boat, mortar, and rockets, or any of them, or the tackle belonging thereto, shall not be provided or maintained and stationed as aforesaid.

Tide gauge, &c.

Self-registering tide gauge

And with respect to keeping a tide and weather gauge, be it enacted as follows:

18. Unless it be provided by the special Act that the undertakers need not provide a tide or weather gauge, the undertakers,

before they shall be entitled to take any rates in respect of the harbour, dock, or pier, shall provide and always thereafter maintain in good repair and working order, in a proper part of the harbour, dock, or pier, and in such manner as the Admiralty shall by writing under the hand of the Secretary of the Admiralty approve of, an efficient self-registering tide gauge, with a barometer, and they shall cause the daily working and results of the said tide gauge and barometer, and a daily account of the state of the wind and weather, to be regularly and properly kept, and shall cause the full and true results and details thereof to be sent monthly to the Secretary of the Admiralty.

and barometer
to be provided
by under-
takers.

19. The undertakers shall be liable to a penalty not exceeding two pounds for every twenty-four hours during which the said self-registering tide gauge and barometer shall not be provided or maintained, or such account of the wind and weather shall not be kept as aforesaid; and they shall be liable to a penalty not exceeding ten pounds for each month they shall neglect or refuse to send as aforesaid to the Secretary of the Admiralty a full and true account of the daily workings of the said tide gauge and barometer, and of the daily state of the wind and weather.

Penalty for
not providing
tide gauge, &c.

And with respect to the construction of warehouses, wharfs, and other conveniences, be it enacted as follows :

*Warehouses
and cranes.*

20. The undertakers, in addition to the lands authorised to be compulsorily taken by them under the powers of the special Act, may contract with any party willing to sell the same for the purchase of any lands adjoining or near to the undertaking for extraordinary purposes; (that it is to say,)

Additional
land required
for extraordi-
nary purposes.

For making and providing additional yards, wharfs, and places for receiving, depositing, and loading or unloading goods, and for the erection of weighing machines, toll houses, offices, warehouses, sheds, and other buildings and conveniences :

For making convenient roads to the harbour, dock, or pier, or any other purpose which may be requisite or convenient for the formation or use thereof.

21. The undertakers may, as well upon the said lands as upon any other lands acquired by them under the provisions of this and the special Act, construct such warehouses, storehouses, sheds, and other buildings and works as they may deem necessary for the accommodation of goods shipped or unshipped within the harbour, dock, or pier, and may erect or provide such cranes, weighing and other machines, conveniences, weights, and measures as they think necessary for loading, unloading, measuring, and weighing such goods.

Warehouses,
cranes, &c.

22. The undertakers or their lessees shall provide proper servants and labourers for working such cranes at all reasonable times for the use of the public.

Working of
cranes.

Power to lease
wharfs, ware-
houses, &c.

23. The undertakers may lease or grant the use or occupation of any warehouses, buildings, wharfs, yards, cranes, machines, or other conveniences provided by them for the purposes of this or the special Act, at such rents, and upon such terms and conditions as shall be agreed upon between the undertakers and the persons taking the same, provided that no such lease be granted for a longer term than three years.

Quays not to
be deemed
legal until
approved by
Treasury and
Customs.

24. And with respect to the quays, be it enacted, that the quays of the harbour, dock, or pier shall not be deemed to be legal quays for the shipping and unshipping of goods until the same have been approved of by the Treasury and the Commissioners of her Majesty's Customs respectively for that purpose; and such quays, and the use thereof, shall be subject to all the same rules, regulations, and restrictions to which legal or lawful quays are or may be by law subject.

Rates.

And with respect to the rates to be taken by the undertakers, be it enacted as follows :

Rates not to
be taken until
the works shall
be completed.

25. Except where it is otherwise provided by the special Act, the undertakers shall not take any rate until the harbour, dock, or pier in respect of the use of which the same is payable is completed and fit for the reception of vessels, or other the purpose for which the same is intended.

Certificate of
completion of
harbour.

26. A certificate under the hand of the chairman of the quarter sessions in England or Ireland, and of the sheriff in Scotland, shall be conclusive evidence that the harbour, dock, or pier is completed and fit for the reception of vessels, or other the purpose intended; and such chairman or sheriff shall sign such certificate on proof being adduced to him of such completion and fitness.

Tonnage of
vessels, how to
be ascertained.

27. For the purpose of ascertaining the tonnage rates payable upon vessels under this or the special Act, the tonnage of British vessels duly registered according to law shall be ascertained according to the certified tonnage in the register of such vessels, and the tonnage of all other vessels shall be ascertained according to the rules of admeasurement for the time being established by law for regulating the admeasurement of the tonnage and burthen of the merchant shipping of the United Kingdom

Exemption of
vessels in her
Majesty's or
the public
service, from
rates.

28. Nothing in this or the special Act contained shall extend to charge with rates or duties, or to regulate or subject to any control, any vessel belonging to or employed in the service of her Majesty, or any member of the royal family, or in the service of the Customs or Excise, or of the Corporation of Trinity House of Deptford Strond, or the Commissioners of Northern Lights, using the harbour, dock, or pier, and not conveying goods for hire, or any packet boat or post office packet, being a packet boat or post office packet as defined under the provisions of any Act relating to the Post Office, or any post office bag of letters conveyed by any such packet boat or packet or by any

other vessel whatsoever, or any of the officers or persons employed in the service of the Admiralty, Ordnance, Customs Excise, or Post Office, or their baggage, or any vessel or goods being under seizure by the officers of revenue, or any naval, victualling, or ordnance stores, or other stores or goods for the service of or being the property of her Majesty, or any troops landed upon or delivered or disembarked from any of the quays of the harbour, dock, or pier, or their baggage; but all such vessels, officers, or persons as aforesaid shall have the free use of the harbour, dock, or pier, without any charge or rate being made for using the same: Provided always, that if any person claim and take the benefit of any such exemption as aforesaid without being entitled thereto, he shall for every such offence be liable to a penalty not exceeding ten pounds.

29. If any vessel for which the rates have been paid be obliged, from stress of weather or other sufficient cause, after leaving the harbour, dock, or pier, to return with the same cargo, the rates so paid shall not again be payable in respect of such vessel.

Vessels
returning
from stress
of weather.

30. The undertakers may from time to time vary the rates or any of them respectively in such manner as they think expedient, by reducing or raising the same, provided that the rates do not in any case exceed the amount authorized by the special Act to be taken, and provided also that the rates be at all times charged equally to all persons in respect of the same description of vessel and the same description of goods.

Power to vary
the rates.

31. Provided always, that the rates chargeable by this or the special Act upon vessels not entitled to the privileges of a British ship, or upon goods imported or exported in such vessel, or upon persons not being British subjects, shall not be applicable to vessels belonging to countries with which treaties of reciprocity shall have been concluded so long as such treaties shall continue in force, nor to the goods imported or exported therein, nor to the subjects of such countries, but during such period the same rates shall be levied upon the vessels of such countries, and upon the goods imported or exported therein, and upon the subjects of such countries, as may be from time to time payable under this or the special Act upon vessels entitled to the privileges of British ships, or upon goods imported or exported in such vessels, or upon the subjects of such countries

Vessels, &c. of
countries
with which
treaties of
reciprocity
exist to be
charged as
British vessels,
&c.

32. The undertakers may from time to time agree with the proprietors or masters of vessels engaged in transporting passengers, or with any other persons using the dock, harbour, or pier, either for purposes of business or pleasure, for the payment of a fixed sum, payable in advance, as a composition, by the year or other shorter period, for the rates payable by or in respect of such passengers or their luggage, or by such other

Power to
compound for
tolls payable
in respect of
passenger
vessels, or by
persons using
harbour, &c.
for purposes of

business or
pleasure.

persons as aforesaid: Provided always, that if the undertakers at any time make any such agreement by way of composition as aforesaid, the proprietors or masters of all other vessels engaged in like manner, and all other persons using or frequenting the harbour, dock, or pier as aforesaid, may compound for the rates payable by them respectively upon the like terms as shall be contained in such agreement, and the undertakers shall accept such composition accordingly, to the intent that such rates may not be compounded for partially or in favour of any particular person or party whatsoever.

Harbour, dock,
and pier to be
free to the
public on pay-
ment of rates.

33. Upon payment of the rates made payable by this and the special Act, and subject to the other provisions thereof, the harbour, dock, and pier shall be open to all persons for the shipping and unshipping of goods, and the embarking and landing of passengers.

*Collection of
rates.*

And with respect to the collection and recovery of rates, be it enacted as follows:

Collector may
enter vessels
to ascertain
rates payable.

34. The collector of rates may, either alone or with any other persons, enter into any vessel within the limits of the harbour, dock, or pier, in order to ascertain the rates payable in respect of such vessel, or of any goods therein.

Master to
report arrival
of vessel.

35. Within twenty-four hours after the arrival within the limits of the harbour, dock, or pier of any vessel liable to rates, the master of such vessel shall report such arrival to the harbour master; and if he fail to make such report within the time aforesaid he shall be liable to a penalty not exceeding ten pounds.

Master to pro-
duce certificate
of registry.

36. The master of every registered vessel shall, on demand, produce the certificate of the registry of such vessel to the collector of rates; and if any such master refuse or neglect to make such production, on demand, he shall be liable to a penalty not exceeding twenty pounds.

Masters of
vessels to give
names of con-
signees, and
accounts of
goods intended
to be un-
shipped, &c.

37. When any goods are intended to be unshipped within the limits of the harbour, dock, or pier, the master of the vessel containing such goods shall, within twelve hours after the arrival of such vessel within the limits of the harbour, dock, or pier, deliver to the collector of rates the name of the consignee of the goods intended to be unshipped, or other person to whom the same are to be delivered, and, if the whole cargo be intended to be unshipped, a copy of the bill of lading or manifest of the cargo, or, if part only of the cargo be intended to be unshipped, the best account in writing in his power of the kinds, weights, and quantities of the several goods intended to be unshipped; and every such master shall, if required so to do by the collector of rates, give to him twelve hours notice of the time at which the cargo of such vessel, or any part of the same, is intended to be unshipped.

38. Every master of a vessel of which the cargo or part of the cargo shall be unshipped within the limits of the harbour, dock, or pier, who shall have failed to deliver or to give any of the particulars in regard to the cargo or the notice in regard to the unshipment thereof herein-before required to be delivered or given by such master, or who shall deliver or give any false particulars or notice, shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty on masters giving no account or notice, or a false account or notice.

39. Before any person shall ship any goods on board of any vessel lying within the limits of the harbour, dock, or pier, he shall give to the collector of rates a true account, signed by him, of the kinds, quantities, and weights of such goods; and every person who shall ship any goods in any such vessel without having given such accounts, or who shall give or sign a false account of such goods, shall for every such offence be liable to a penalty not exceeding ten pounds.

Shippers to give an account of goods intended to be shipped.

40. If any difference arise between the collector of the rates and the master of any vessel or the owner of any goods, concerning the weight or quantities of the goods in respect of which any rates are payable, such collector may cause all such goods to be weighed or measured, and, if necessary, may detain the vessel containing such goods until they have been weighed or measured.

In case of dispute goods to be weighed or measured.

41. If the weight or quantity of such goods be greater than that shown by the manifest, bill of lading, account, or statement delivered by the master of the vessel or by the owner of the goods, the expences of such weighing or measuring shall be paid to the undertakers, and shall be recoverable by the same means as are herein or in the special Act provided for the recovery of rates; but if the weight or quantity of such goods be the same or less than that shown by the manifest, bill of lading, account, or statement so delivered, the undertakers shall pay all the expences of such weighing or measuring, and shall also pay to the master of the vessel or the owner of the goods all the expences occasioned by such weighing or measuring, or by the detention of the vessel for that purpose.

Expences of weighing or measuring goods.

42. The rates payable to the undertakers in respect of any goods shipped or unshipped within the limits of the harbour, dock, or pier shall be paid as follows; (that is to say,) if such goods are to be shipped they shall be paid before the shipment, or if such goods are to be unshipped they shall be paid before the removal of the goods from the premises of the undertakers, and before the expiration of two months next after they were unshipped.

Rates on goods when payable.

43. If the master of any vessel or the owner of any goods evade the payment of the rates payable to the undertakers in respect of such vessel or goods, or any part thereof, he shall pay to them three times the amount of the rates of which he shall so have evaded the payment, and the same shall be recovered from such master or owner respectively in the same manner as penalties imposed by this Act are directed to be recovered, or by action in any court of competent jurisdiction.

Penalty for evading payment of rates.

Recovery of
tonnage rates
by distress
and sale of
ship and tackle.

44. If the master of any vessel in respect of which any rate is payable to the undertakers refuse or neglect to pay the same, or any part thereof, the collector of rates may, with such assistance as he may deem necessary, go on board of such vessel and demand such rates, and on nonpayment thereof, or of any part thereof, take, distress, or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the matters so distrained or arrested until the rates are paid; and in case any of the said rates shall remain unpaid for the space of seven days next after any distress or arrestment so made, the said collector may cause the matters so distrained or arrested to be appraised by two or more sworn appraisers, and afterwards cause the matters distrained or arrested, or any part thereof, to be sold, and with the proceeds of such sale may satisfy the rates so unpaid, and the expences of taking, keeping, appraising, and selling the matters so distrained or arrested, rendering the overplus (if any) to the master of such vessel upon demand.

Recovery of
rates on goods
by distress
and sale, or by
action.

45. If default be made in the payment of the rates payable in respect of any such goods, the collector of rates may distress or arrest, of his own authority, such goods, and for that purpose may enter any vessel within the limits of the harbour, dock, or pier in which the goods may be, with such assistance as he shall deem necessary, or, if the said goods have been removed without payment of such rates, he may distress or arrest any other goods within the limits of the harbour, dock, or pier, or the premises of the undertakers, belonging to the person liable to pay such rates, and may sell the goods so distrained or arrested, and out of the proceeds of such sale pay the rates due to the undertakers, rendering the overplus, if any, to the owner of such goods, on demand; or the undertakers may recover such rates by action in any court having competent jurisdiction: Provided always, that the collector of rates shall, before making any such distress or arrestment as aforesaid, pay all duties which may be payable to her Majesty in respect of the goods so distrained or arrested, and he may retain the amount of duties so paid out of the proceeds arising from the sale of such goods.

Disputes con-
cerning rates
or charges
occasioned by
distress.

46. If any dispute arise concerning the amount of any rates due, or the charges occasioned by any distress or arrestment, by virtue of this or the special Act, the person making such distress or using such arrestment may detain the goods distrained or arrested until the amount of the rates due, or the charges of such distress or arrestment, be ascertained by a justice, if in England or Ireland, and by the sheriff, if in Scotland, who, upon application made to him for that purpose, shall determine the same, and award such costs to be paid by either of the parties to the other of them as he shall think reasonable, and such costs, if not paid on demand, shall be levied by distress or pouding and sale, and such justice or sheriff shall issue his warrant accordingly.

47. The undertakers shall from time to time cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, a list of the several rates for the time being payable, and shall cause such boards containing such lists to be fixed in front of the principal office of business of the undertakers, and on some conspicuous part of the quays of the harbour, dock, or pier; and no rate shall be payable during such time as such list is not so affixed, nor shall any rate not specified in such list be payable: Provided always, that if any such list be destroyed, injured, or obliterated, the rates shall continue payable during such time as may be reasonably required for the restoration or reparation of such list, in the same manner as if such list had continued affixed and in the state required by this Act.

List of rates
to be set up.

48. The collector or other proper officer of her Majesty's Customs for the district within which the harbour, dock, or pier is situate may, with the consent of the Commissioners of her Majesty's Customs, refuse to receive any entry or give any coquet, discharge, or clearance, or to take any report inwards or outwards of any vessel liable to the payment of any of the rates imposed by the special Act, until the master of such vessel produces to such collector or officer a certificate, under the hand of the collector of rates, that the rates payable in respect of such vessel, and any goods imported or exported by such vessel, have been paid, or, if there be any dispute as to the rates payable, until such collector or officer shall be satisfied that sufficient security has been given for the payment of such rates when ascertained, together with the expences arising from the nonpayment thereof.

Collector of
customs may
withhold a
clearance to
any vessel
until certificate
is produced
that the rates
are paid, &c.

And with respect to the accounts to be kept of the rates, and of the vessels in respect of which they are payable, be it enacted as follows:

*Account of
rates.*

49. The undertakers shall keep books of account, in which shall be entered the several sums received by or payable to them for rates in respect of vessels, the tonnage of each vessel for which such rates are received or payable, the name of the master thereof, the port to which such vessel belongs, the place from which on each occasion such vessel arrived, and the place to which on each occasion such vessel is bound, and also the several sums received by or payable to them in respect of the goods landed from or taken on board every vessel within the limits of the harbour, dock, or pier.

Undertakers to
keep accounts
of rates and
vessels, &c.

50. The undertakers shall every year cause an annual account in abstract to be prepared, showing the total receipt and expenditure of all monies levied by virtue of this or the special Act for the year ending the thirty-first day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the

Annual
account to be
prepared by
undertakers.

clerk or secretary for the time being of the undertakers, and shall send a copy of the said account, free of charge, to the clerk of the peace in England and Ireland, and the sheriff clerk in Scotland, for the county or of the counties respectively, if more than one, in which the harbour, dock, or pier is situate, on or before the expiration of one month from the day on which such account shall end, which accounts shall be open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection: Provided always, that if the undertakers omit to prepare and send such accounts as aforesaid, they shall forfeit for every such omission the sum of twenty pounds.

*Harbour, dock,
and pier
master.*
—

And with respect to the appointment of harbour masters, dock masters, and pier masters, and their duties, be it enacted as follows:

*Appointment
of harbour
master (includ-
ing dock or
pier master).*

51. The undertakers may appoint such harbour masters as they think necessary, (including in such expression dock masters and pier masters, as herein-before defined,) and from time to time, as often as they think fit, may remove any such harbour master.

*Powers of
harbour
master.*

52. The harbour master may give directions for all or any of the following purposes; (that is to say,)

For regulating the time at which and the manner in which any vessel shall enter into, go out of, or lie in or at the harbour, dock, or pier, and within the prescribed limits, if any, and its position, mooring or unmooring, placing and removing, whilst therein:

For regulating the position in which any vessel shall take in or discharge its cargo or any part thereof, or shall take in or land its passengers, or shall take in or deliver ballast within or on the harbour, dock, or pier:

For regulating the manner in which any vessel entering the harbour or dock or coming to the pier shall be dismantled, as well for the safety of such vessel as for preventing injury to other vessels, and to the harbour, dock, or pier, and the moorings thereof:

For removing unserviceable vessels and other obstructions from the harbour, dock, or pier, and keeping the same clear:

For regulating the quantity of ballast or dead weight in the hold which each vessel in or at the harbour, dock, or pier shall have during the delivery of her cargo, or after having discharged the same:

Provided always, that nothing in this or the special Act contained shall authorize the harbour master to do or cause to be done any act in any way repugnant to or inconsistent with any law relating to the Customs, or any regulation of the Commissioners of her Majesty's Customs.

53. The master of every vessel within the harbour or dock, or at or near the pier, or within the prescribed limits, if any, shall regulate such vessel according to the directions of the harbour master, made in conformity with this and the special Act; and any master of a vessel who, after notice of any such direction by the harbour master served upon him, shall not forthwith regulate such vessel according to such direction shall be liable to a penalty not exceeding twenty pounds.

Penalty on shipmasters not complying with directions of the harbour master.

54. If any harbour master, or any of his assistants, without reasonable cause, or in an unreasonable or unfair manner, exercise any of the powers or authorities vested in the harbour master by this or the special Act, the person so offending shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on harbour master, &c. for misbehaviour.

55. If any person give or offer any sum of money, or any thing whatsoever, by way of reward or bribe to any harbour master or any officer employed in or about the harbour, dock, or pier, for the purpose of gaining an undue preference in the execution of his office, or for the purpose of inducing such harbour master or other officer to do or omit to do anything relating to his office, or if such harbour master or other officer receive any such reward or bribe as aforesaid, every person so offending shall be liable for every such offence to a penalty of twenty pounds.

Penalty on persons offering bribes to officers, and on officers taking bribes

56. The harbour master may remove any wreck or other obstruction to the harbour, dock, or pier, or the approaches to the same, and also any floating timber which impedes the navigation thereof, and the expence of removing any such wreck, obstruction, or floating timber shall be repaid by the owner of the same; and the harbour master may detain such wreck or floating timber for securing the expences, and on nonpayment of such expences, on demand, may sell such wreck or floating timber, and out of the proceeds of such sale pay such expences, rendering the overplus, if any, to the owner on demand.

Harbour master may remove wrecks, &c.

57. No vessel which shall be laid by or neglected as unfit for sea service shall be permitted to lie within the limits of the harbour, dock, or pier, but the harbour master may cause every such vessel to be, at the expence of the owner thereof, removed from the harbour, dock, or pier, and laid on any part of the strand or sea shore, or other place where the same may, without injury to any person, be placed; and the charges of removing or placing such vessel may be recovered from the owner of such vessel by summary complaint, in England or Ireland before any justice of the peace, and in Scotland before the sheriff; and in case of refusal or neglect of payment of such charges for the space of seven days after having been awarded by such justice or sheriff, the harbour master may levy such charges by distress and sale or poinding and sale of such vessel, or of the tackle, apparel, or furniture thereof, or any part thereof, and the justice or sheriff shall issue his warrant accordingly.

Unserviceable vessels to be altogether removed from harbour.

Powers of
harbour
master as to
mooring of
vessels in
harbour.

58. If the master of any vessel in or at the harbour, dock, or pier, or within the prescribed limits, if any, shall not moor, unmoor, place, or remove the same according to the directions of the harbour master, or if there be no person on board of any such vessel to attend to such directions, the harbour master may cause such vessel to be moored, unmoored, placed, or removed as he shall think fit, within or at the harbour, dock, or pier, or within the prescribed limits, and for that purpose the harbour master may cast off, unloose, or cut the rope, or unshackle or break the chain, by which any such vessel is moored or fastened; and all expences attending the mooring, unmooring, placing, or removing of such vessel shall be paid to the undertakers by the master of such vessel: Provided always, that before the harbour master shall unloose or cut any rope, or unshackle or break any chain, by which any vessel without any person on board to protect the same shall be moored or fastened, he shall cause a sufficient number of persons to be put on board of such vessel for the protection of the same.

Vessels enter-
ing harbour
to be dis-
mantled.

59. Before any vessel shall enter the harbour or dock, or approach the pier, the master thereof shall cause her to be dismantled as directed by the harbour master; and if any vessel shall enter the harbour or dock, or approach the pier, without being dismantled in the manner required by the harbour master, after notice shall have been given to the master of such vessel so to dismantle the same, such master shall for every such offence be liable to a penalty not exceeding ten pounds.

Vessels to
lower sails
when entering
dock.

60. Before any vessel shall enter into the dock the master of such vessel shall cause her sails to be lowered or furled; and if the master of any vessel shall navigate the same under sail into or in the dock, he shall for every such offence be liable to a penalty not exceeding ten pounds.

Vessels to
have hawsers,
&c. fixed to
moorings.

61. Every vessel in the harbour or dock, or at or near the pier, shall have substantial hawsers, tow-lines, and fasts fixed to the dolphins, booms, buoys, or mooring posts, when required by the harbour master; and if any vessel shall be in the harbour or dock, or at or near the pier, without substantial hawsers, tow-lines, or fasts fixed as aforesaid, after notice from the harbour master to the master of such vessel to furnish or fix the same, such master shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty for
wilfully cutting
moorings.

62. Every person, other than the harbour master, who shall wilfully cut, break, or destroy the mooring or fastening of any vessel lying in the harbour or dock, or at or near the pier, shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for
placing, &c.
vessels near
the entrance of

63. As soon as the harbour or dock shall be so far completed as to admit vessels to enter therein, no vessel, except with the permission of the harbour master, shall lie or be moored in the

entrance of the harbour or dock, or within the prescribed limits; and if the master of any vessel either place it or suffer it to remain in the entrance of the harbour or dock, or within the prescribed limits, without such permission, and do not, on being required so to do by the harbour master, forthwith proceed to remove such vessel, he shall be liable to a penalty not exceeding five pounds, and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition.

64. Whenever the undertakers shall deem it necessary, for the purpose of repairing, scouring, or cleansing the harbour, dock, or pier, that any vessel lying therein or thereat shall be removed therefrom, the master of such vessel shall, within three days after notice in writing signed by the harbour master has been given to him, remove such vessel according to such notice; and in case of his neglecting so to do, such master shall be liable to a penalty not exceeding ten pounds.

Vessels to be removed for the purpose of repairing harbour or dock, on notice.

65. If the master of such vessel cannot be found, or if he neglect or refuse to remove the same, as required by the said notice, the harbour master may remove such vessel to such station as he shall select, and the expences of such removal shall be paid to the undertakers by the owner of the said vessel or the master thereof: Provided always, that previous to the repair of harbour, dock, or pier, which shall require the removal of the vessels therefrom, the harbour master shall give three days notice of such repair and of the necessity for such removal to the collector and comptroller of the Customs of the district within which the harbour, dock, or pier is situate, or which shall be specified for that purpose in the special Act, and cause a like notice to be affixed on some conspicuous part of such custom house and of the office of the undertakers.

Harbour master may remove any vessel, if the master thereof neglect or refuse so to do.

And with respect to the discharging of vessels and the removal of the goods, be it enacted as follows:

66. The master of every vessel which shall go into the harbour or dock for the purpose of being discharged of her cargo shall cause her to be so discharged as soon as conveniently may be after entering therein, and shall cause her, after being so discharged, to be removed, without loss of time, into such part of the harbour or dock as shall be set apart for light vessels, and the harbour master shall cause a part of the harbour or dock to be set apart for light vessels accordingly; and if the master of any such vessel shall not cause it to be so removed within twenty-four hours after being required so to do by notice in writing signed by the harbour master, he shall be liable to a penalty not exceeding ten pounds, and the harbour master may cause such vessel to be so removed, and the expences of such removal shall be paid to the undertakers by the master of such vessel.

Discharge of cargoes and removal of goods.

Discharge of cargo and removal of vessels.

Penalty on wharfingers, giving undue preference in loading or unloading goods.

67. If any wharfinger or other servant of the undertakers, or any of their lessees, or the servants of such lessees, shall give any undue preference or show any partiality in loading or unloading any goods on any of the quays, wharfs, or other works belonging to the undertakers, the person so offending shall be liable to a penalty not exceeding five pounds.

Removal of goods from the quays, &c. after lying there longer than allowed by byelaws.

68. No goods shall be allowed to remain upon any of the piers or quays, or in the approaches thereto, for a longer time than shall be allowed by the byelaws of the undertakers; and if any goods shall so remain without the consent of the undertakers, the harbour master, or any person appointed by the undertakers for that purpose, may remove the same to any of the premises of the undertakers, or other convenient place, and keep the same until payment to the undertakers of the expences of such removal, and of the keeping of the goods; and if such expences be not paid within seven days after demand thereof made upon the owner, or if no such owner can be found, the harbour master may sell such goods, and out of the proceeds of such sale pay such expences, rendering the overplus, if any, to the owner on demand.

Protection of the harbour, dock, and pier.

And with respect to the protection of the harbour, dock, and pier, and the vessels therein, from fire or other injury, be it enacted as follows:

Combustible matter on quays, &c. to be removed.

69. Every person being the owner of or having the charge of any tar, pitch, resin, spirituous liquors, turpentine, oil, or other combustible thing, which shall be upon any quay, dock, or wharf belonging to the undertakers, or on the deck of any vessel within the harbour or dock, or at or near the pier, shall cause the same to be removed to a place of safety within two hours after being required so to do by notice in writing, signed by the harbour master, and if he fail so to do shall forfeit a sum not exceeding forty shillings for every hour such combustible thing shall remain in any such place as aforesaid after the expiration of two hours from the service of the said notice.

Combustibles to be guarded during the night.

70. If any such combustible thing as aforesaid shall remain on any part of the quays or works connected with the harbour, dock, or pier, or on the deck of any vessel within the harbour or dock, or at or near the pier, after sunset, the owner or person having the charge of the same, or on his default the harbour master, at the expence of such owner, shall provide a sufficient number of persons to guard the same from half an hour before sunset to half an hour after sunrise; and such expence, if not paid by the said owner to the undertakers, on demand, shall be ascertained and recovered in the same manner as damages for the recovery of which no special provision is made are by this Act directed to be ascertained and recovered.

Penalties for offences.

71. Every person who shall commit any of the acts following shall be deemed guilty of an offence, and shall for every such

offence be liable to a penalty not exceeding ten pounds; (that is to say,)

1. Every person who shall boil or heat any pitch, tar, resin, turpentine, oil, or other combustible matter, in any vessel lying within the harbour or dock, or near the pier, or in any place within the limits of the harbour, dock, or pier, except in such place and in such manner as shall be specially appointed by the undertakers for that purpose: Boiling or heating pitch, &c.
 2. Every person who shall have or cause to be had any fire or lighted candle or lamp in any vessel within the harbour or dock, or at or near the pier, except with the permission of the harbour master: Fires in vessels.
 3. Every person who shall have or cause to be had any fire, candle, or lamp lighted within any of the docks or the works belonging to the same, except at such times and in such manner as shall be permitted by the byelaws of the undertakers: Fires within docks.
 4. Every person who shall bring any loaded gun on the quays or works of the harbour or dock, or on the pier, or shall have or suffer to remain any loaded gun in any vessel in the harbour or dock, or at or near the pier: Loaded guns.
 5. Every person who shall, without the permission of the undertakers, bring or suffer to remain any gunpowder on the quays or works of the harbour or within the dock, or on the pier, or in any vessel within the harbour or dock, or at or near the pier. Gunpowder.
- 72.** The harbour master may enter into any vessel within the harbour or dock, or at or near the pier, to search for any fire or light in or suspected to be in such vessel, contrary to the provisions of this or the special Act, or of any byelaw made in pursuance thereof, and may extinguish the same; and any person who shall obstruct the harbour master in the execution of such duty shall for every such offence be liable to a penalty not exceeding ten pounds. Power to enter ship and search for and extinguish fires or lights.
- 73.** Every person who shall throw or put any ballast, earth, ashes, stones, or other thing into the harbour or dock shall for every such offence be liable to a penalty not exceeding five pounds: Provided always, that nothing in this Act contained shall prejudice or prevent any person from adopting any measures which but for the passing of this Act he would be lawfully entitled to adopt for recovering any land which shall at any time have been lost to him, or severed from land belonging to him, by reason of the overflowing or washing of any navigable river, or for protecting his land from future loss or damage by the overflowing or washing of such navigable river. Penalty for throwing ballast, &c., into harbour or dock.
- 74.** The owner of every vessel or float of timber shall be answerable to the undertakers for any damage done by such vessel or float of timber, or by any person employed about the Owner and master of vessel answerable for

damage to
works.

same, to the harbour, dock, or pier, or the quays or works connected therewith, and the master or person having the charge of such vessel or float of timber through whose wilful act or negligence any such damage is done shall also be liable to make good the same; and the undertaker may detain any such vessel or float of timber until sufficient security has been given for the amount of damage done by the same: Provided always, that nothing herein contained shall extend to impose any liability for any such damage upon the owner of any vessel, where such vessel shall at the time when such damage is caused be in charge of a duly licensed pilot whom such owner or master is bound by law to employ and put his vessel in charge of.

Saving as to
vessels in
charge of
licensed pilot.

Ascertainment
and recovery
of amount of
damage.

75. If the amount claimed in respect of any such damage as aforesaid do not exceed fifty pounds, such damage shall be ascertained, and the amount thereof shall, in England or Ireland, be recovered before two justices, and in Scotland before the sheriff; and in addition to the remedies hereby provided for the recovery of the same, the justices or sheriff before whom the same are recovered may cause the vessel or float of timber causing such damage, and any tackle and furniture thereof, to be distrained and kept until the amount of damages and costs awarded by them is paid, and, if the same be not paid within seven days after such distress or keeping, may cause the property so distrained or kept, or any part thereof, to be sold, and out of the proceeds of such sale may pay the amount of damages and costs awarded by such justices or sheriff, and all the charges incurred by the distress, keeping, and sale of such property.

Owner paying
damages or
penalty or
costs for act
of servant may
recover from
him.

76. If the owner of any vessel or float of timber make satisfaction for any such damage as aforesaid wilfully or negligently done by the master or person having charge of such vessel or float of timber, or if the owner of any vessel or goods in any other case have been compelled to pay any penalty or costs by reason of any act or omission of any other person, the person who actually did such damage or who committed such offence shall repay to the owner of such vessel or such goods the amount of the damage or penalty and costs, together with the costs of the proceedings to enforce such repayment; and if such damage or penalty respectively do not exceed fifty pounds, the sum may, in England or Ireland, be recovered before two or more justices, and in Scotland before the sheriff.

*Lighthouses,
beacons, and
buoys.*

And with respect to buoys, lighthouses, and beacons, be it enacted as follows:

Undertakers
to lay down
buoys.

77. The undertakers shall lay down buoys for the guidance of vessels in such situations within the limits of the harbour dock, or pier and of such character, as shall from time to time be directed by the Corporation of Trinity House, Deptford Strond, the Corporation for preserving and improving the Port

of Dublin, or the Commissioners of the Northern Lights, respectively, according as the harbour, dock, or pier is situated in England, Ireland, or Scotland.

78. The undertakers shall not erect any lighthouse or beacon, or exhibit or allow to be exhibited any light, beacon, or sea-mark, without the sanction in writing of the said Corporation of Trinity House, of the said Corporation for preserving and improving the Port of Dublin, or of the said Commissioners of Northern Lights, respectively, according as the harbour, dock, or pier is situated in England, Ireland, or Scotland, first having been obtained in that behalf; and if any such light, beacon, or sea-mark be exhibited with such sanction as aforesaid, the same shall not be afterwards altered without the like sanction; and every such light, beacon, and sea-mark shall be of such power and description, and shall be from time to time discontinued or altered, as the said Corporation or Commissioners respectively shall from time to time direct.

Lighthouses, beacons, or sea-marks not to be exhibited or altered without sanction of the Trinity House, &c.

And with respect to the police of the harbour, dock, or pier, be it enacted as follows:

Harbour and dock police.

79. Any two justices may appoint such persons as shall be nominated for that purpose by the undertakers to be special constables within the limits of the harbour, dock, pier, and premises of the undertakers, and within one mile of the same; and every person so appointed shall be sworn in by any such justices duly to execute the office of a constable within the limits aforesaid, and when so sworn in shall have the same powers, protections, and privileges within the limits aforesaid, and shall be subject to the same liabilities, as constables have or are subject to by the laws of the realm.

Special constables for harbours, &c.

80. Any two justices may dismiss any such constable from his office, and upon such dismissal all powers, protections, and privileges vested in such constables shall cease.

Dismissal of constables.

And with respect to the appointment of meters and weighers, and their duties, be it enacted as follows:

Meters and weighers.

81. Where under the special Act the undertakers shall have the appointment of meters and weighers, the undertakers may appoint and license a sufficient number of persons to be meters and weighers within the limits of the harbour, dock, and pier, and remove any such persons at their pleasure, and may make regulations for their government, and fix reasonable rates to be paid or other remuneration to be made to them for weighing and measuring goods.

Appointment, &c. of meters and weighers.

82. When a sufficient number of meters and weighers have been appointed by the undertakers, under the powers of this and the special Act, the master of any vessel, or the owner of any goods shipped, unshipped, or delivered within or upon the harbour, or dock, or pier, shall not employ any person other

Meters and weighers licensed by undertakers or Customs only to be employed.

than a weigher or meter licensed by the undertakers, or appointed by the Commissioners of her Majesty's Customs, to weigh or measure the same; and if in such case any person other than a meter or weigher licensed by the undertakers, or a meter or weigher appointed by the Commissioners of her Majesty's Customs, shall weigh or measure any such goods as aforesaid, such person, as well as the person by whom he shall be employed, shall for every such offence be liable to a penalty not exceeding five pounds, and the weighing or measurement of any such goods by any such person shall be deemed illegal.

Byelaws.
—

Byelaws may be made for all or any of the purposes herein named.

And with respect to the byelaws to be made by the undertakers, be it enacted as follows :

83. The undertakers may from time to time make such byelaws as they shall think fit for all or any of the following purposes; (that is to say,)

For regulating the use of the harbour, dock, or pier :

For regulating the exercise of the several powers vested in the harbour master :

For regulating the admission of vessels into or near the harbour, dock, or pier, and their removal out of and from the same, and for the good order and government of such vessels whilst within the harbour or dock, or at or near the pier :

For regulating the shipping and unshipping, landing, warehousing, stowing, depositing, and removing of all goods within the limits of the harbour, dock, or pier, and the premises of the undertakers :

For regulating (with the consent of the Commissioners of her Majesty's Customs) the hours during which the gates or entrances or outlets to the harbour, dock, or pier shall be open :

For regulating the duties and conduct of all persons, as well the servants of the undertakers as others, not being officers of Customs or Excise, who shall be employed in the harbour, dock, or pier, and the premises of the undertakers :

For regulating the use of fires and lights within the harbour, dock, or pier, and the premises belonging thereto, and within any vessel being within the harbour or dock, or at or near the pier, or within the prescribed limits (if any) :

For preventing damage or injury to any vessel or goods within the harbour or dock, or at or near the pier, or on the premises of the undertakers ;

For regulating the use of the cranes, weighing machines, weights and measures belonging to the undertakers, and the duties and conduct of all weighers and meters employed by them :

For regulating the duties and conduct of the porters and carriers employed on the premises of the under-

takers and fixing the rates to be paid to them for carrying any goods, articles, or things from or to the same :

And the undertakers may from time to time, as they shall think fit, repeal or alter any such byelaws: Provided always, that such byelaws shall not be repugnant to the laws of that part of the United Kingdom where the same are to have effect, or the provisions of this or the special Act; and such byelaws shall be reduced into writing, and have affixed thereto the common seal of the undertakers, if they be a body corporate, or the signatures of the undertakers, or two of them, if they be not a body corporate, and, if affecting other persons than the officers or servants of the undertakers shall be confirmed and published as herein provided.

84. The undertakers may, by the byelaws so to be made by them, impose such reasonable penalties as they shall think fit, not exceeding five pounds for each breach of such byelaws: Provided always, that such byelaws shall be so framed as to allow the justices or sheriff before whom any penalty imposed thereby shall be sought to be recovered to order the whole or part only of such penalty to be paid.

Byelaws may be enforced by penalties.

85. No byelaws made under the authority of this or the special Act, except such as relate solely to the undertakers or their officers or servants, shall come into operation until the same be confirmed in the prescribed manner, and if no manner of confirmation be prescribed, then not until they be allowed by some judge of one of the superior courts, or in England or Ireland by the justices at the quarter sessions, or in Scotland by the sheriff; and it shall be incumbent on such justices or sheriff, on the request of the undertakers, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow of the same, as they shall think meet.

Byelaws affecting persons other than the undertakers, &c. not to come into operation until confirmed.

86. Provided always, that no such byelaws shall be confirmed unless notice of the intention to apply for a confirmation of the same have been given in one or more newspapers of the county in which the harbour, dock, or pier, or the principal office thereof, is situate, one month at least before the hearing of such application; and any person desiring to object to any such byelaw, on giving to the undertakers notice of the nature of his objection, ten days before the hearing of the application for the allowance thereof, may, by himself or his counsel, attorney, or agent, be heard thereon, but not so as to allow more than one objecting party to be heard on the same matter of objection.

Notice of application for confirmation of byelaws to be given in one or more newspapers

87. For one month at least before any such application for confirmation of any byelaws, a copy of the proposed byelaws shall be kept at the principal office of the undertakers; and all persons may, at all reasonable times, inspect such copy, without fee or reward, and the undertakers shall furnish every person who shall apply for the same with a copy thereof, or of any part

Copy of proposed byelaws to be open to inspection.

thereof, on payment of sixpence for every one hundred words so to be copied.

Publication of
byelaws.

88. The said byelaws when confirmed shall be published in the prescribed manner, and when no manner of publication is prescribed they shall be printed, and the clerk to the undertakers shall deliver a printed copy thereof to every person applying for the same, without charge, and a copy thereof shall be painted or placed on boards, and put up in some conspicuous part of the office of the undertakers, and also on some conspicuous part of the harbour, dock, or pier, and such boards, with the byelaws thereon, shall be renewed from time to time, as occasion shall require, and shall be open to inspection without fee or reward; and in case the said clerk shall not permit the same to be inspected at all reasonable times, he shall for every such offence be liable to a penalty not exceeding five pounds.

Byelaws, when
confirmed and
published, to
be binding on
all parties.

89. All byelaws made and confirmed according to the provisions of this and the special Act, when so published and put up, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same.

Proof of
making and
publication
of byelaws.

90. The production of a written or printed copy of the byelaws requiring confirmation by a judge of the superior courts or the court of quarter sessions or the sheriff, authenticated by the signature of the judge or of the chairman of the court or the sheriff who shall have approved of the same, and a written or printed copy of the byelaws not requiring such confirmation, authenticated by the common seal of the undertakers, if incorporated, or under the hands of the undertakers, if not incorporated, or any two of them, shall be evidence of the existence and due making of such byelaws in all cases of prosecution under the same, without proof of the signature of such judge or chairman or sheriff, or the common seal or signature of the undertakers; and with respect to the proof of the publication of any such byelaws, it shall be sufficient to prove that a board containing a copy thereof was put up and continued in manner by this Act directed, and, in case of its afterwards being displaced or damaged, that such board was replaced or restored as soon as conveniently might be, unless proof be adduced by the party complained against that such painted board did not contain a copy of such byelaws, or was not duly put up or continued as directed by this Act.

[*S. 91 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

Recovery of
damages and
penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or the sheriff, be it enacted as follows:

Railways
Clauses Acts,

92. If the harbour, dock, or pier be in England or Ireland, the clauses of the Railways Clauses Consolidation Act, 1845,

with respect to the recovery of damages not specially provided for, and penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and if the harbour, dock, or pier be in Scotland, the clauses of the Railways Clauses Consolidation Act (Scotland), 1845, with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the harbour, dock, or pier and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

as to damages, &c. to be incorporated with this and the special Act.
8 & 9 Vict. c. 20.
8 & 9 Vict. c. 33.

[*S. 93 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

94. All things herein or in the special Act, or any Act incorporated therewith, authorized or required to be done by two justices may and shall be done in England and Ireland by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices, and in Scotland by the sheriff of any county, or his substitute.

Acts which may be done by one magistrate.

95. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied, by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expences, as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

Penalties, &c. in metropolitan police district.

2 & 3 Vict. c. 71.

96. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

False evidence.

*Access to
special Act.*

And with respect to access to the special Act, be it enacted as follows :

*Copies of
special Act.*

97. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England or Ireland, and of the sheriff clerk in Scotland, of the county in which the harbour, dock, or pier, or any part thereof, is situate, a copy of such special Act, so printed as aforesaid ; and the said clerk of the peace and sheriff clerk shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall allow all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837.

7 Will. 4. &
1 Vict. c. 83.

*Penalty on
undertakers
failing to keep
or deposit such
copies.*

98. If the undertakers fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

*Saving of
rights.*

And with respect to the saving of rights, be it enacted as follows :

*Saving as to
rights of
Crown, Ad-
miralty, &c.*

99. Nothing in this or the special Act, or any Act incorporated therewith contained shall extend to alienate, defeat, vary, lessen, abrogate, or prejudice any estate, right, title, interest, prerogative, royalty, jurisdiction, or authority, of or appertaining to the Queen's most excellent Majesty, nor to abridge, vary, or abrogate any of the powers or authorities by law vested in the Admiralty, or in the Commissioners of Her Majesty's Customs, or in the Commissioners of Woods, in relation to the possessions and land revenues of her Majesty in right of her crown, or otherwise howsoever.

*Saving as to
Revenue
Departments.*

100. Nothing in this or the special Act shall be deemed to extend to or affect any Act of Parliament relating to her Majesty's duties of Customs or Excise, or any other revenue of the crown, or to extend to or affect any claim of her Majesty in right of her crown, or otherwise howsoever, or any proceedings at law or in equity by or on behalf of her Majesty, in any part of the United Kingdom of Great Britain and Ireland.

*Saving as to
city of
London*

101. Nothing in this Act or the special Act contained shall prejudice or derogate from the estates, rights, liberties, interests, privileges, franchises, or authority of the Mayor and Commonalty and Citizens of the City of London, or their successors, or the Lord Mayor of the said city for the time being.

102. Nothing in this or the special Act contained shall pre-judice or derogate from any of the rights or privileges, jurisdiction or authority of the Corporation of the Trinity House of Deptford Strond, the Corporation for preserving and improving the Port of Dublin, or the Commissioners of Northern Lights, or any lord of the manor within the limits of the harbour or dock.

Saving as to
Trinity House,
&c.

103. Nothing herein or in the special Act contained shall be deemed to exempt the undertakers from the provisions, regulations, and conditions which may be contained in any general Act relating to harbours, docks, or piers, or to ports, harbours, or tidal waters, which may be passed in the same session in which the special Act is passed, or any future session of Parliament.

Saving as to
future Acts.

[*S. 104 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XXVIII.

AN ACT to amend the Acts relating to County Buildings.

[8th June 1847.]

[*Preamble recites 7 Geo. 4 c. 63; 7 Will. 4 & 1 Vict. c. 24.*]
Whereas doubts have been entertained whether the justices at general or quarter sessions of the peace for any county, riding, or division have power, under the said Acts or either of them, to build any shire or county hall, or to purchase land for the erection of the same, or to raise money for that purpose, where the assizes or sessions for such county, riding, or division have heretofore been usually holden in the town hall of some city or town not being the property of the county or riding for which such assizes or sessions are holden.

[1.] All the powers, authorities, and provisions in the said Acts contained relative to the building of any new shire hall or county hall, and to the purchasing of any houses, lands, tenements, or hereditaments for that purpose, and to defraying the expence of such building and purchase, and to raising money for the same, shall be deemed to apply to and to authorise and to have authorized the building of any new shire hall or county hall, and the purchasing of any houses, lands, tenements, and hereditaments for that purpose, and the defraying the expence of such building and purchase, and the raising of money for the same, although the assizes or sessions of the peace for the county, riding, or division have theretofore been usually holden in the town hall of some city or town not being the property of the county, riding, or division, and whether such town hall shall or shall not be pulled down; and the houses, lands, tenements, and hereditaments so purchased shall be conveyed to such persons as the said justices shall from time to time think fit to

Powers of
recited Acts
relative to the
building of any
new shire hall,
&c. shall apply,
although
assizes, &c.
have thereto-
fore been held
in some place
not being the
property of the
county.

direct, in trust for the county, riding, or division; and such houses, lands, tenements, and hereditaments, and such new shire hall or county hall, shall be and be held for the exclusive use of the county, riding, or division.

[S. 2 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XXXI.

AN ACT to make further Provision for the Relief of the destitute Poor in Ireland.^[1]

[8th June 1847.]

[*Preamble* recites 1 & 2 *Vict. c.* 56.]

[1.] The guardians of the poor of every union in Ireland shall make provision for the due relief of all such destitute poor persons as are permanently disabled from labour by reason of old age, infirmity, or bodily or mental defect, and of such destitute poor persons as, being disabled from labour by reason of severe sickness or serious accident, are thereby deprived of the means of earning a subsistence for themselves and their families, whom they are liable by law to maintain, and of destitute poor widows having two or more legitimate children dependent upon them; and it shall be lawful for the said guardians to relieve such poor persons, being destitute as aforesaid, either in the workhouse or out of the workhouse, as to them shall appear fitting and expedient in each individual case; and the said guardians shall take order for relieving and setting to work in the workhouse of the union, at all times when there shall be sufficient room in the workhouse of the union to enable them so to do, such other persons as the said guardians shall deem to be destitute poor, and unable to support themselves by their own industry or by other lawful means.

If adequate relief cannot be given in workhouse, Poor Law Commissioners may authorise guardians to administer out-door relief for a time.

2. If at any time it shall be shown to the satisfaction of the Poor Law Commissioners that by reason of the want of room in the workhouse of any union, or in such additional workhouse or workhouses as may have been or may be provided for the reception and maintenance of the poor of such union, adequate relief cannot be afforded therein to destitute poor persons, not being persons permanently disabled, or destitute poor persons disabled by sickness or accident as aforesaid, or such destitute poor widows as aforesaid, or that the workhouse or workhouses of any union, as the case may be, by reason of fever or infectious disease, is or are unfit for the reception of poor persons, it shall be lawful for the said commissioners from time to time, by order under their seal, to authorize and empower the guardians of such union to administer relief out of the workhouse to such destitute poor persons for any time not exceeding two calendar months from

[¹ Short title, "The Poor Relief (Ireland) Act, 1847." See 55 & 56 *Vict. c.* 10.]

the date of such order, and at any time after the making of such order to revoke the same by an order under their seal for that purpose; and on the receipt by the guardians of any union of any such order authorizing relief out of the workhouse as aforesaid they shall make provision for the relief of the destitute poor persons of the said union accordingly, for such time as shall be specified in the said order, or until the said order shall be revoked: Provided always, that all relief given out of the workhouse to able-bodied persons under the authority of any such order shall be given in food only, save as herein-after provided in any case of sudden and urgent necessity.

3. The Poor Law Commissioners, from time to time as they shall see fit, shall regulate and determine the manner of application for all relief to be given under the provisions of this Act, and the manner of inquiring into the circumstances of the applicants for relief, and the kind of relief to be afforded out of the workhouse, when not directly specified by this Act, and the manner of granting, ordering, and giving such relief, and keeping the accounts thereof, and of making and keeping lists of the persons so applying and of the persons so relieved; and the guardians of the union and their officers shall administer such relief, subject to the rules and regulations so to be made by the said commissioners as aforesaid.

Commissioners to regulate manner of application for relief, &c.

4. The Poor Law Commissioners shall direct the guardians of each union in Ireland to appoint so many relieving officers as the said commissioners may deem requisite to assist in the administration of relief under this Act, and under the Acts now in force for the relief of the destitute poor in Ireland; and the said guardians, on receiving such authority and direction, shall appoint such relieving officers accordingly, subject to the approval of the said commissioners.

Relieving officers to be appointed.

[S. 5 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

6. Whenever the whole of any electoral division or divisions is situated at a greater distance than six miles from the place of meeting of the board of guardians of the union of which such electoral division or divisions may form part, it shall be lawful for the commissioners, on the application of the board of guardians, to form such electoral division or divisions into a district, and to direct the said guardians from time to time to appoint a committee of their members to receive applications of poor persons requiring relief in such district, to examine into the cases of such poor persons, and to report to the said guardians thereon.

Where electoral division is at a distance from place of meeting of guardians, committee of guardians may receive applications for relief.

7. Every relieving officer so appointed as aforesaid shall have power to give provisional relief in any case of sudden and urgent necessity, either by an order of admission to the workhouse or fever hospital of the union, provided there be room therein respectively, and by conveying any destitute poor person thereto if necessary, or by affording such poor person immediate and

Provisional relief by relieving officers.

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temporary relief in food, lodging, medicine, or medical attendance, until the next ordinary meeting of the board of guardians, at which meeting he shall report the case, and the nature and cost of the relief so afforded, in such form and manner as the Poor Law Commissioners shall prescribe, and after such report shall give no further relief, otherwise than by direction of the board of guardians, in the case so reported; and the guardians of the union shall furnish the relieving officers with the necessary funds for affording relief in manner aforesaid, and for the relief of those destitute poor persons to whom relief shall be granted by the board of guardians, at such times and in such manner as the Poor Law Commissioners shall determine and direct.

8. All relief given under this Act to a wife or child shall be considered as given to the person who under the provisions of the first-recited Act shall be liable to maintain such wife or child; and the child of any poor person relieved under this Act shall be subject to the same liability in respect of such relief as in respect of any relief granted under the Poor Relief (Ireland) Act, 1838.

9. No relief given under the authority of this Act shall be given from the poor rates of any union to any person not being within the union when so relieved.

11. For the purpose of charging the relief afforded out of the workhouse under the provisions of this Act, the Poor Law Commissioners shall cause to be printed, and shall furnish to every clerk of an union in Ireland, a register book to be called "The Out-door Relief Register," in a form similar to the workhouse register prescribed by the first-recited Act, in which the clerk of the union shall register, together with the other particulars in the said form required, the name of the electoral division in which every person relieved under this Act out of the workhouse shall have been resident at the time of his beginning to receive such relief; and all the provisions of the said Acts now in force for the relief of the destitute poor in Ireland, which determine the circumstances under which any person shall be deemed to have been resident in an electoral division, and the manner of charging the expence of the relief of persons stated in the register to have been so resident in some electoral division, and of persons not stated in the register to have been so resident, and all the provisions of the said Acts which relate to the production of the register at every meeting of guardians for their approval, examination, and correction, and the signing and countersigning of the same, and all provisions of the said Acts which relate to the power of appealing against the decision of the board of guardians touching the description of the residence of any person in the said register, and to the costs which may be incurred in such appeal, shall extend and apply to the out-door

relief register to be kept as aforesaid under the provisions of this Act, and to the persons relieved under this Act out of the work-house, and to the manner of charging the expence of the relief so afforded to such persons under this Act, and to the decisions of the board of guardians touching the description of the residence of any person in the out-door relief register.

12. For the purpose of charging the expence of relief to any electoral division no person shall be deemed to have been resident in such electoral division, unless during the three years before his application for relief he had occupied some tenement within such division for thirty calendar months, or, if he had not so occupied some tenement, had usually slept within such division for the period of thirty calendar months.

What to constitute residence in an electoral division.

13. If it shall be proved to the satisfaction of the board of guardians at any time that any occupier of land within such union rated at a net annual value not exceeding five pounds shall be willing to give up to his landlord his right and title and the actual possession of the said land, whether held under lease or as tenant at will, and to emigrate together with all persons who may be dependent upon him for their support and maintenance, and that such occupier shall have been approved by her Majesty's Principal Secretary of State for the Colonies, or such person as he may appoint for that purpose, as a fit and proper person to be admitted as an emigrant, and that the immediate lessor of such occupier is willing upon the emigration of such occupier and his family, and upon the surrender of the land occupied by him, to forego any claim for rent which he may have upon the said occupier, and also to provide two-thirds of such fair and reasonable sum as shall be required for the emigration of such occupier and his family, then and in such case it shall be lawful for the board of guardians of such union, if they shall think fit, upon payment to them of such last-mentioned sum, to charge upon the rates of the electoral division in which such person shall be resident, and to pay in addition to such sum, in such manner as shall be directed by the Poor Law Commissioners, in aid of the emigration of such occupier and his family, any sum not exceeding one half of the sum contributed and paid by such immediate lessors as afore-said, notwithstanding that any sum or sums so charged and paid may exceed in any one year one shilling in the pound on the rates of such electoral division, and notwithstanding that such occupier and his family may not be nor have been inmates of the workhouse of such union.

Assistance to emigration.

[S. 14 rep. 55 & 56 Vict. c. 19. (S.L.R.)]

15. Provided always, that all expences incurred in aid of the emigration of any occupier and his family, under the provisions of this Act, shall be charged to the electoral division in which

Expences in aid of emigration of occupiers of lands.

the land occupied by such occupier is situated; and no expenses incurred in aid of the emigration of any occupier and his family, or any destitute poor person, under the provisions of this Act or any of the Acts for the relief of the destitute poor in Ireland, shall be deemed to be expenses incurred for the relief of the poor.

All qualified justices resident in union to be ex-officio guardians, unless they exceed in number the elective guardians.

16. [*Recital and repeal in part of 1 & 2 Vict. c. 56 s. 24.*] Every justice of the peace resident in an union in Ireland, and acting for the county in which he resides, who shall be qualified under the provisions of the said first-recited Act to be or to be appointed an ex-officio guardian of the union, shall be an ex-officio guardian thereof, unless the number of justices so qualified shall exceed the number of guardians to be elected by the rate-payers of such union; and in every case in which the number of justices so qualified as aforesaid shall exceed the number of guardians to be elected by the rate-payers, so many only of the qualified justices who shall be rated on the highest amount of rateable property in the rate books of any electoral division in such union as shall be equal to the number of elective guardians shall be entitled to act as ex-officio guardians: Provided always, that each of such highest rated justices shall have previously declared, in writing, to the clerk of the union his willingness to act as such ex-officio guardian: Provided always, that whenever the number of justices qualified as aforesaid to act as ex-officio guardians in any union shall, by death, removal, disqualification to act, or from any other cause, be reduced to or below the number of the elective guardians, then and so long as the number shall not exceed the number of elective guardians the whole of the justices so qualified shall be entitled to act as ex-officio guardians.

[*S. 17 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Power to dissolve board of guardians on default, and appoint paid officers.

18. [*Recital of 1 & 2 Vict. c. 56 s. 26.*] In case regular meetings of the board of guardians of any union shall not be holden at the times enjoined by the said commissioners, or in case through the default of the guardians the duties of such board of guardians shall not be duly and effectually discharged according to the intention of the several Acts which now are or hereafter shall be in force for the relief of the destitute poor in Ireland and of this Act, it shall be lawful for the Poor Law Commissioners to dissolve the said board of guardians, and the said commissioners shall thereupon at once, and without ordering such fresh election of the guardians as in the said Act is provided, appoint such and so many paid officers as they may think fit to carry into execution the provisions of the said Acts and of this Act; and all the provisions of the first-recited Act which relate to the powers, duties, and salaries of such paid officers appointed by the commissioners after a fresh election of the board of guardians as aforesaid, and to the security to be given by such paid officers, and to their continuance in office, shall extend and

apply to the powers, duties, and salaries of such paid officers as shall be appointed by the said commissioners under this Act without ordering a fresh election of the board of guardians, and to the security to be given by such officers, and to their continuance in office respectively.

19. [*Recital of 1 & 2 Vict. c. 56. s. 48.*] It shall be lawful for the said commissioners, if they shall think fit, to provide a chapel, or to direct that a suitable apartment of the workhouse shall be specially appropriated, for the religious worship of any denomination of Christians being inmates of the workhouse, and to make such orders and regulations for securing and regulating the use of such chapel or apartment for such purpose as they shall deem expedient.

Commissioners may provide chapel, &c. for religious service of any denomination.

20. And whereas by the said first-recited Act the Poor Law Commissioners are empowered to purchase or hire land, not exceeding twelve acres imperial measure, to be occupied with the workhouse of any union in Ireland: Be it enacted, that it shall be lawful for the Poor Law Commissioners to purchase or hire, in addition to such twelve acres, land not exceeding three statute acres to be occupied by the guardians of any union, any portion of the said last-mentioned land so to be occupied being either contiguous to or detached from the site on which any workhouse stands, as shall be found most convenient in each case; and it shall be lawful for such last-mentioned land to be used for the site of a fever ward, or as a cemetery for the burial of deceased inmates of the workhouse, or for any other purpose which the said commissioners shall approve; and the Poor Law Commissioners are hereby empowered to erect such fever ward on such land to be so purchased or hired as last aforesaid.

1 & 2 Vict. c. 56. s. 35.

Additional land to be used as site of fever ward, or as cemetery, &c.

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21. [*Recital.*] Be it enacted, that the Poor Law Commissioners be empowered to hire or purchase land, not exceeding twenty-five statute acres, and to erect thereon a suitable building, according to a plan approved by them, and sealed with their seal, to be used and occupied as a school for the reception, maintenance, and education of children not above the age of fifteen years, being inmates of one or other of the workhouses of the North Dublin and South Dublin Unions; and the guardians of each of the said unions shall contribute to the cost of hiring or purchasing such lands, and of erecting such building, and of upholding, repairing, or altering the same, in the proportion which the net annual value of the one union bears to the net annual value of the other, and shall contribute in the same proportion to defray the expences of furnishing and fitting up the said school, and providing all articles, implements, and requisites, for the common use of the inmates thereof; but the maintenance of the children belonging to each union which the guardians of such union shall direct and send to be educated in such school shall be at the separate cost of the union, and the proportion of the cost of maintenance to be charged on each union shall be

Hire or purchase of land for sites of schools for Dublin Unions.

calculated, and shall be defrayed by the guardians of the union, in such manner as the Poor Law Commissioners shall direct: Provided that the guardians of each union shall not be entitled to send to be maintained and educated in such school a number of children exceeding that proportion of the whole number to be at one time maintained in the said school which agrees with the proportion borne by the net annual value of the union to the net annual value of both unions, except with the consent of the Poor Law Commissioners in that behalf first had and obtained; provided also, that the quantity of land to be purchased or hired for the purpose aforesaid shall not be greater than the quantity which, under the provisions of the said first-recited Act and this Act, may be purchased or hired and occupied together with the workhouses of the said two unions, and that the expenditure to be incurred in building the said school shall not be greater than might be incurred for the erection of workhouses or additional workhouses in the said unions under the said Acts.

School to be conducted by a board of management chosen from the guardians of the North Dublin and South Dublin Unions.

22. The management of the said school shall be conducted by a board of management, consisting of so many members of the respective boards of guardians of the North Dublin and South Dublin Unions as the Poor Law Commissioners shall by order under their seal direct; and such members shall be chosen by the guardians of the said unions, in such proportions, and at such times and in such manner, as the commissioners shall direct; and the chairman of each of the said unions shall be an ex-officio member of the said board of management; and the said board of management shall meet, three members thereof being present to form a board, and shall exercise their functions and perform their duties, in accordance with the rules and regulations issued by the Poor Law Commissioners for their guidance and control; and it shall be lawful for the Poor Law Commissioners to authorize and direct the said board of management to appoint officers for the superintendence of the said school, of such description and with such qualifications as the said commissioners shall deem fitting and expedient, and to prescribe the duties to be performed by the said officers respectively; and every such officer shall be subject in all respects to the control of the Poor Law Commissioners and the board of management, in the same manner as other officers appointed under the Acts in force for the relief of the poor are subject to the control of the Poor Law Commissioners and the guardians of the union whereof they are officers, and shall be liable to removal in the same manner.

Provisions of 1 & 2 Vict. c. 56, as to purchase of land, &c. to extend to purchases, &c. under this Act.

23. All the provisions of the said first-recited Act which relate to the purchase and conveyance of land for the erection of workhouses, and which empower the Poor Law Commissioners to direct the guardians of any union to raise or borrow the sums necessary to defray the expence of hiring or purchasing such

land and building such workhouses, and all provisions of the said Act which relate to the borrowing of money by the guardians for the purposes aforesaid, shall extend and apply to the purchase and conveyance of land, and the erection of buildings thereon, under the provisions of this Act.

[S. 24 *rep.* 11 & 12 *Vict. c.* 25. s. 2.]

25. The Poor Law Commissioners shall have the same power and authority in respect of all officers appointed under this Act to define and prescribe the qualifications of such officers, and their duties, and the places or limits within which those duties shall be performed respectively, and to determine the continuance in office or removal of such officers, and to appoint fit and proper persons in their room, on the neglect or refusal of the parties competent in that behalf to appoint, and to regulate from time to time the salaries payable to such officers, and the mode of payment thereof, and the proportions in which the salaries shall be charged to the electoral divisions of a union, as the said commissioners have in respect of paid officers appointed under the Acts now in force for the relief of the destitute poor in Ireland; and the officers appointed under this Act shall be subject to the same disqualification or removal from office, and shall be liable to the same penalties and forfeitures, actions, indictments, or other proceedings, criminal or civil, as the paid officers appointed under the provisions of the said Acts now in force as aforesaid.

Commissioners to have the same power in respect of paid officers appointed under this Act, and such officers to be subject to the same disqualifications, &c., as in case of officers appointed under existing Poor Relief Acts.

26. The administration of relief under this Act shall be subject to the direction and control of the Poor Law Commissioners; and all orders, rules, and regulations made by the said commissioners in execution of this Act shall be of the same force and effect, and shall be subject to the same conditions, as orders, rules, and regulations of the said commissioners issued in execution of the said Acts now in force.

Administration of relief to be subject to the control of the commissioners.

27. The guardians of every union and their officers shall keep accounts, in such form as the Poor Law Commissioners shall prescribe, of all expenditure under this Act; and all the provisions of the said Acts now in force for the relief of the destitute poor in Ireland which relate to the auditing of accounts of the guardians and other persons liable to account under the said Acts, and to the verification of such accounts on oath or otherwise, and to the disallowance or reduction of charges, and to the recovery of balances found by the auditor to be due from such guardians or other persons as aforesaid, and all the provisions of the said Acts which relate to the powers, duties, and proceedings of the auditors of unions, shall extend and apply to the accounts of the expenditure of the guardians and their officers under this Act, and to the balances found to be due thereon from the said guardians or officers respectively, and to the recovery of the said balances.

Accounts of expenditure.

Recovery of
sums dis-
allowed by
auditors.

28. In every case of disallowance or reduction by the auditor in the accounts of any union, the auditor shall make and sign a certificate of such disallowance or reduction on the face of the book or account wherein the charges so disallowed or reduced shall appear, and shall debit the amount disallowed to the guardian or guardians by whose signature or initials the expenditure of the sum so disallowed shall have been authorized, or if not authorized by the guardians, then to the officer or officers by whom such expenditure shall have been made; and the sum so disallowed shall be payable by the person or persons debited therewith to the treasurer of the union; and it shall be lawful for the said auditor to proceed for the recovery thereof by all the ways and means provided by the said first-recited Act for the recovery of balances found by the auditor to be due from any guardian, treasurer, or other person having the control of the poor rate, or accountable for such balances; or in lieu thereof the said auditor may summon the person or persons so debited to appear before any two justices of the county in which the workhouse of the union shall be situate, and the said justices shall, on the production of the said certificate of disallowance or reduction, inquire whether the sum disallowed has been paid to the treasurer of the union, and on failure of due proof thereof by or on the part of the person or persons so debited as aforesaid shall adjudge the said person or persons to pay the said sum, together with the costs of the application, to the said auditor; and on failure of such payment forthwith shall cause the said sum and costs to be levied by warrant of distress upon the goods and chattels of the said person or persons, where-soever the same may be found, and to be paid to the said auditor, who shall thereupon pay over the sum so disallowed and recovered to the treasurer of the union.

Annual
account of
expenditure in
relief in each
union in
Ireland.

29. . . . an account shall annually be laid before Parliament, on or before the first day of May, of the expenditure on the relief of the poor in each union in Ireland, and of the total number relieved in each, during the year ended on the twenty-ninth day of September preceding.

Construction.

30. The said Acts now in force for the relief of the destitute poor in Ireland and this Act shall be construed as one Act, except so far as the provisions of any one of such Acts may alter the provisions of any previous Act.

[S. 31 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XXXII.

AN ACT to facilitate the Improvement of Landed Property in Ireland.^[1] [8th June 1847.]

[*Preamble recites 1 & 2 Will. 4. c. 33 s. 32; 9 & 10 Vict. c. 1. s. 6.*]

[*S. 1 and s. 2 (authorising Treasury to advance 1,500,000*l.* for purposes of this Act) rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

3. The Commissioners of Public Works in Ireland for the time being shall be the commissioners for the execution of this Act, and shall for the purposes of this Act be a corporation with perpetual succession and a common seal, to be by them altered or varied at their pleasure; and such commissioners shall have full power, with the sanction of the Treasury, and of the Lord Lieutenant of Ireland, to appoint so many and such civil engineers, surveyors, agriculturists, architects, builders, clerks, and other officers, as may be necessary for the purpose of carrying this Act into execution, in the same manner as the said Commissioners of Public Works may now appoint any officers and clerks under any Act or Acts now in force in Ireland, and to pay to them such salaries as may be determined on by the Treasury.

Commissioners of Public Works to be commissioners for executing this Act.

Power to appoint engineers and officers.

4. It shall be lawful for the said Commissioners of Public Works upon application made to them under the provisions of this Act, and subject to such rules and regulations as may from time to time be made by the Treasury, to make loans under this Act for the following purposes; (that is to say,) for the drainage of any lands by any such means as the said commissioners shall approve, for subsoiling, trenching, or otherwise deepening and improving the soil, for irrigation or warping of land, for embanking lands from the sea or tidal waters or rivers, for enclosing or fencing any land, or improving the fences, drains, streams, or watercourses of any land, for the reclamation of waste or other land, for making farm roads, or for clearing lands of rocks and stones.

Loans for works of improvement.

5. No loan under this Act shall be made until the application for the same shall have been submitted to and sanctioned by the Treasury.

Loans to be sanctioned by Treasury.

6. Any person seised of or entitled at law or in equity to land, as tenant in fee simple, or in fee tail, general or special, or as tenant in dower or by curtesy, and also any person who shall be entitled to land under any will or settlement, or any other deed or instrument, (except a grant or lease reserving rent,) for his own life or the life of any other person, or jointly for his own life and the life of any other person or persons, or for years determinable on such life or lives, and also any person who shall

Who shall be deemed owners of land for purposes of this Act.

^[1] Short title, "The Landed Property Improvement (Ireland) Act 1847." See 55 & 56 Vict. c. 10.]

be entitled to land under any lease granted by any collegiate or ecclesiastical body, or other corporation sole or aggregate, or under any lease granted by any person having immediate or derivative title from or under any such collegiate or ecclesiastical body, or other corporation sole or aggregate, which last-mentioned lease shall contain a covenant of perpetual renewal, or for renewal toties quoties, and also any person who shall be entitled to land under any grant, lease, or any other deed or assurance, for an estate in fee, or for an estate or interest for any life or lives renewable for ever, or for a term of years absolute, whereof forty years or more shall be unexpired at the time of application, or for any term of forty years or more renewable on the fall of any life or lives, or for any term or terms of years renewable for ever, whether such last mentioned persons shall be entitled to land, for any such estate, term, or interest, either absolutely, or as tenant in tail, or as quasi tenant in tail, or for life, . . . and also every feoffee or trustee of any land, or of any such estate or interest therein as aforesaid, for charitable or other purposes, or of any estate created for any term of years exceeding forty years unexpired, determinable upon the execution or fulfilment of any trusts mentioned in any such grant, lease, deed, or assurance, and also every trustee of any such estate or interest as aforesaid who shall be in the actual possession of the land, or in receipt of the rents payable by the tenants of such land, shall be deemed an owner of such land for the purposes of this Act; and in every case in which any person seised, possessed of, or entitled to any such land for any such estate or interest as aforesaid shall be an infant, feme covert, idiot, or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall be deemed an owner of such land for the purposes of this Act: Provided always, that no person, except a mortgagee in possession or receipt of rent of the mortgaged lands, or any part thereof, shall be deemed an owner for the purposes of this Act for or by reason of any estate vested in him which shall have been created by way of mortgage, or for securing the payment of any sum of money, but that the person who would be deemed an owner for the purposes of this Act, if such estate by way of mortgage or for securing any money had not been created, shall, notwithstanding such mortgage or security, or any other incumbrance, be deemed such owner as aforesaid: Provided also, that a feme covert entitled to rents and profits for her separate use, and whether or not restrained from anticipation, shall for the purposes of this Act be considered as a feme sole: Provided also, that where several persons in succession shall have in any land such estates or interests as would entitle each of them, under the provisions aforesaid, to be so deemed an owner, such of the said persons shall be deemed the owner for the purposes of this Act as shall be in actual occupation of the said land; or in case the person in actual occupation shall not be entitled to be deemed an

owner under this provision, then the person who shall have the first such estate or interest as aforesaid therein, in reversion or remainder to or above the estate or interest of the person in actual occupation, as may entitle him to be deemed an owner under this provision shall be deemed the owner for the purposes of this Act: Provided also, that when the owner first entitled as aforesaid shall (after notice given to him, in such form and for such period as the said Commissioners of Public Works shall from time to time direct, by the person having the next such estate or interest as aforesaid in reversion or remainder) refuse or neglect to make any such application, then the person having the next such estate as aforesaid in reversion or remainder may, if he think fit to apply for a loan under this Act, be deemed the owner of such lands for the purposes of this Act, and shall be deemed the owner for all such purposes, if any loan or advance on account thereof shall, upon his application, be made under this Act.

7. Any person seised or possessed of any land under any lease reserving rent for two or more lives in being at the time of the application, or for any term of years determinable on any two or more lives in being at the time of application, or for any term of years absolute, whereof there shall be at the time of application twenty-five years or more unexpired, who shall apply under the provisions of this Act, and shall give such security as the said Commissioners of Public Works shall direct for the payment of the annual amount of any rent-charge which may become chargeable on such land in respect of any loan to be made under the provisions of this Act by the person so applying, his executors, administrators, or assigns, during the continuance of the residue of such his estate or interest in the said lands, or for so many years as such rent-charge under this Act shall be payable, if his interest shall so long continue, may be deemed the owner of such land under the provisions of this Act; and unless specially provided by the terms of holding, no such application as aforesaid, nor any act or proceeding consequent thereupon under this Act, nor the charging of any rent-charge on such land, shall be construed as a breach of any covenants or conditions subject to which any person applying under this or the last preceding clause may hold the land: Provided always, that in case there shall be several persons having such interest as last mentioned in the lands, the person entitled to apply for a loan under the provisions of this Act, or, in case there shall be several such applicants, the person to be preferred, shall be the person in actual occupation of the lands, or in his default, then the person whose estate or interest in remainder or reversion shall be nearest to or above that of the actual occupier; so always that no loan shall be granted to any applicant under this provision, except upon such security as before mentioned being given for the payment of any rent-charge chargeable under this Act by the person to whom any loan shall be granted, during the

Lessees having certain interests may, on giving security for payment of rent-charge, be deemed owners.

Who shall be entitled to loan where several persons have an interest in the land.

No loan to be granted except upon security;

nor without statement of name, &c. of landlord or reversioner, and notice to him.

continuance of the residue of his estate or interest in the land, or for such other period as before mentioned; and no such loan shall be granted to any such applicant as aforesaid, except he shall state in his application for the same the name and address of his immediate landlord, or person entitled to the next estate or interest in the land on the determination of his lease, and shall have given notice to such landlord or person of his intention to apply for such loan, and shall satisfy the said commissioners that such notice has been given.

Joint tenants, tenants in common, &c.

8. Joint tenants, tenants in common, and coparceners of any land may in respect thereof be accounted as the owner under the provisions of this Act: Provided always, that any such person or persons interested in or possessing more than one half of such land may, subject to the provisions aforesaid, be deemed entitled to apply for a loan under this Act; and any such application, and the proceedings thereon, shall be binding upon the other persons interested in such lands, and upon their estates and interests therein.

Court of Chancery may, in certain cases, determine who may act as owner.

9. Provided always, that in any case in which there shall appear to the Commissioners of Public Works to be any doubt or question as to who may be the owner of any lands within the meaning of this Act, either as to the whole of such lands or any portion thereof, it shall be lawful for any person or persons claiming to be entitled to or interested in any such lands, or any portion thereof, or the rents thereof, or of any portion thereof, to apply by petition to the Court of Chancery in a summary way for an order to determine who shall be the proper person to apply as owner under this Act, and thereupon such court shall make such order as may seem fit for the purpose of determining who shall be the proper person to apply as owner under the provisions of this Act; and it shall be lawful for any person so determined to be the owner to do all acts which any owner as defined in this Act is authorized and empowered to do under this Act.

Rules and orders as to proceedings in Chancery under this Act.

10. It shall be lawful for the Lord Chancellor of Ireland, with the advice and consent of the Master of the Rolls for the time being, from time to time and as often as circumstances shall require, to make and prescribe such rules and orders concerning the form and mode of any proceedings to be had and taken in Chancery for the purposes of this Act, and the practice to be observed by the court in relation to such proceedings or any matters incident thereto, as shall from time to time seem necessary or expedient.

Owner may make application to the commissioners by memorial in the form in schedule (A.)

11. Any owner of land within the meaning of this Act who may propose to improve the same under the provisions of this Act may apply to the said Commissioners of Public Works by memorial for a loan; and such memorial shall be made in the form in the schedule (A.) to this Act annexed, or as near thereto as in the opinion of the said commissioners the circumstances

of the case will admit, and shall contain the names or denominations of the lands proposed to be charged, and on which or on any part of which any such improvements as aforesaid are proposed to be made, the estate or interest which such applicant may have in such land, the estimated expence of effecting the proposed improvements, the amount of quit rents and rent-charges in lieu of tithes payable in respect of such land or any part thereof, the annual value of such land, and the estimated increase in the annual value expected to arise to the lands the subject of such improvement; and every such memorial shall be accompanied by a plan of such lands, as well as by an estimate and specification in detail of the proposed works, together with such other plans and particulars (if any) as the said commissioners by any rules or regulations to be made by them from time to time may require.

[*S. 12 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

13. The said Commissioners of Public Works may require security, by deposit, bond, or otherwise, to be given to them, in such form as they may think fit, by the owner of the land making the application, or by any other person on his behalf or jointly with him, for the payment to the said commissioners of such sum as the said commissioners may require to defray the expences of obtaining a report upon and investigating the subject of any such application, including all expences consequent upon any such investigation; and, unless the said commissioners shall otherwise direct, such payment shall be made by the person making the application, and that whether any loan shall be made upon the application or not.

Security for costs of report and investigation.

14. In case any advance under this Act shall be made on the security of the lands the subject of such application as aforesaid, the costs and expenses of the investigation by the said commissioners may, on the application of the party liable to pay the same, be included in the sum in respect of which a rentcharge shall be charged on such lands under the provisions of this Act.

If advance made, expences of inquiry may form part of the charge on the land.

15. With a view to expedite the proceedings preliminary to the execution of any of the works under this Act it shall be lawful for the Treasury, on the application of the Commissioners of Public Works, to direct that any sum or sums of money, not exceeding in the whole the sum of five thousand pounds in any one year, required for the purposes of any such preliminary investigation and proceedings as aforesaid by the said last-mentioned commissioners shall be advanced and paid to them out of the growing produce of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and applied by the said commissioners in making the necessary survey, inspection, and investigation, and in taking all other proceedings preliminary to making any loan or advance under this Act; and all and every sum or sums of money so to be advanced

Treasury may advance money to meet preliminary expences.

Repayment
of sums so
advanced.

and paid out of the Consolidated Fund as aforesaid shall be repaid to the Consolidated Fund by the Commissioners of Public Works on behalf of the party on whose account or at whose instance such expences may have been incurred, either out of the first or other monies advanced for the purpose of executing the works the subject of such preliminary inquiry, and to be for that purpose retained by the Paymaster of Civil Services in Ireland out of the monies so advanced, and to be by the said Paymaster of Civil Services paid over to the said commissioners, on their certificate, to be made for that purpose; or (in case where the execution of the necessary works shall not be proceeded with, either in consequence of the said last-mentioned commissioners not approving of the same, or from any other cause,) such sum or sums of money shall be repaid out of the monies to be paid to the said last-mentioned commissioners by the party or person who shall have made application for the execution of any such works, and to be recovered by the said last-mentioned commissioners under the security herein-before by this Act authorized to be taken for this purpose.

Commissioners
may cause the
land, and plan,
&c. of works
proposed, to be
inspected by a
competent per-
son, who shall
report his
opinion
thereon.

16. The said commissioners, if they shall think fit, shall cause the land, and the plan, estimate, and specification of the works proposed in any application, to be inspected and examined by a competent person, who shall report his opinion thereon, and also whether the proposed or any other works will effect immediately or prospectively an improvement in the annual value of the land to an amount exceeding the utmost annual amount to be charged thereon under this Act in respect of the advance applied for, or the sum necessary to be expended, and he shall annex to such report either the plan, specification, and estimate so furnished to the said commissioners by the applicant, or some other plan, specification, or estimate for effecting and carrying out the works in a substantial and durable manner; and the said commissioners may make such further and other inquiries in relation to any such application as they may think fit, and may alter or modify any such plans, specifications, and estimates in such manner as they may think fit: Provided always, that no charge, security, or proceeding under this Act shall be impeached or questioned at law or in equity by reason that the annual value of any lands may not actually be improved by the works effected.

Commissioners,
&c. may enter
lands for the
purposes of
survey or
inquiry.

17. For the purposes of any inspection, survey, or inquiry directed or necessary under any of the provisions of this Act it shall be lawful for the said commissioners, by themselves, or by their surveyors, engineers, agriculturists, architects, builders, agents, officers, and workmen, to enter upon any lands with respect to which any works shall be executed, or shall be proposed to be executed, under this Act, or any lands adjoining thereto, and to dig or bore therein, and also to examine any weir, sluice, or floodgate erected in or upon any river or stream and to open or raise, or shut or close, and to keep open or raised,

shut or closed, for a reasonable time, any such floodgate or sluice, for the purposes of any such inquiry, and to make any soundings, or bore the bed or channel of any part of such river, or any mill-course connected therewith, making reasonable compensation for any damage done thereby; and the amount of such compensation shall (if not previously agreed upon between the parties and the said commissioners) be ascertained by two or more justices of the peace at petty sessions in or for the district wherein any such damage shall be committed; and such justices shall be authorized and required to inquire into and determine the same, and for that purpose to examine on oath or otherwise, as by law authorized, all such witnesses as shall be produced before them, and to make such order as to them shall seem just for the payment of the amount of such damage by the commissioners to the party aggrieved, which said order shall be final and conclusive, and such damages shall be taken as part of the costs of the inquiry: Provided always, that the said commissioners, their surveyors, engineers, agriculturists, architects, builders, agents, officers, and workmen, may enter upon such lands as aforesaid, and do all necessary matters and things by this Act authorized, previously to or pending the decision of such justices.

18. It shall be lawful for the said Commissioners of Public Works, ~~with the sanction of the Treasury,~~ to make such rules and regulations as they shall from time to time think proper with respect to applications for advances under this Act, and to issue such instructions and forms as they may think proper for the guidance of and observance by persons applying for or receiving loans, or executing work, or rendering accounts of monies advanced under this Act, and with respect to all other matters in and about the execution of this Act not hereby especially referred to the determination of any other person, court, or body.

Rules, &c, with respect to applications for advances under this Act. 195

19. On receipt of any such application by memorial as hereinbefore mentioned, the said Commissioners of Public Works shall (if they think proper to entertain the same) give notice thereof by advertisement, to be published once in the Dublin Gazette, and for two successive weeks (once at least in each week) in any newspaper circulating in the county in which the lands the subject of any such memorial shall be situate, or in any newspaper printed and published in Dublin, which notice shall contain the name of the memorialist, and the names or such description as the said commissioners shall think sufficient of the lands in respect of which such memorial shall have been presented, together with the amount of loan applied for, and by which notice all parties claiming to be interested in the lands the subject of any such memorial, and all other parties whom it may concern, shall be required on or before a day therein to be named, not sooner than two weeks from the said publication

Notice of applications for loans and objections.

in the Dublin Gazette, to transmit to the said commissioners in Dublin their dissent or objection (if any) to any such memorial, or to any statement therein contained, or to the loan applied for by any such memorial, with their reasons for such dissent or objection; and in case any person shall, within such period so named as aforesaid, signify in writing to the said commissioners such dissent or objection as aforesaid, and the nature of his estate or interest in or charge upon the said land (if any), the said commissioners shall notify such dissent to the person by whom such memorial shall have been presented, or to the owner for the time being of such land, and shall not make any such loan till such dissent or objection shall have been withdrawn, or an order shall have been made thereon in the manner herein-after provided.

Inquiry into
objections and
order for exe-
cution of
works.

20. In all cases in which the said Commissioners of Public Works shall receive any such dissent or objection as aforesaid in writing within such period as aforesaid (unless such dissent or objection shall be withdrawn), they shall, on a day not sooner than one week from the day limited by such notice for the transmission of such dissent or objection as aforesaid, to be stated in such notice, or to be fixed by some subsequent notice to be published as aforesaid, call a meeting at their office in Dublin or elsewhere of all persons claiming to be interested in the said lands, and of such other persons as the said commissioners may think fit to summon, (and which meeting, as well as every other meeting to be held under this Act, may be held and presided over by any one of the said commissioners, who shall have power from time to time to adjourn such meeting to such time and place as they may think proper,) and hear and inquire into such objections and dissents, and all such other matters and things as shall be then and there brought before them, and shall and may receive any evidence touching or pertinent to the same, upon oath or otherwise, as by law authorized; and in such case, or in case no dissent or objection shall be received as aforesaid (in which case no notice of meeting need be given), and if the said commissioners shall be satisfied that it will be beneficial to all persons interested in the land to which such application shall relate that such loan should be made, the said commissioners shall make such order under their common seal in the premises as to the said commissioners shall seem fit with respect to the making of such loan, or the execution of the proposed works; and every such order shall be in writing under their common seal, and shall contain the name of the lands to be charged with such loan, the name of the memorialist, the amount of the loan (if any) proposed to be made, and such other matters as the said commissioners may think proper.

Commissioners
to execute
duplicate of
order for loan,

21. In all cases where the commissioners shall have made any such order for a loan as aforesaid, they shall execute under their common seal a duplicate thereof, and shall, at the expence of the

owner applying for such loan, or other the owner for the time being, forthwith cause the said duplicate of such order to be registered in the office for registry of deeds ~~in the city of Dublin~~; and the registrar of the said registry office, his and their assistant, deputies, and other officers, shall be required to register the same, and all other instruments by this Act directed or authorized to be registered, in the same manner as any deeds or instruments are registered in said office, and to enter a memorial thereof in the abstract books and indexes of or relating to memorials registered and kept in the said office, subject to the payment of such fees as may now be lawfully demanded upon registration;

and register the same in the registry of deeds in Dublin. *§ 6. 18. 1954.*

22. From the date of the registry of such order the several lands therein mentioned shall, in case any loan or advance shall be granted in respect thereof, become charged (in the manner and with the priority by this Act provided) with the rent-charge to be payable under the provisions of this Act in respect of such loan; and every such order in respect of the lands therein specified shall be binding upon all persons having any estate or interest in such lands, or lien or incumbrance thereon, and shall be conclusive evidence that the several proceedings herein-before directed to be taken and observed have been duly complied with; and that all dissents or objections to the making of any loan have been withdrawn, disallowed, or removed; and it shall not be lawful for any person to question such order of the said Commissioners of Public Works, or any advances of money to be made in pursuance thereof, in respect of any thing whatsoever done or omitted to be done under the provisions of this Act, or for any other reason whatsoever.

The lands to become chargeable with the payment of rent-charge from the date of such registry.

23. No error, misdescription, misnomer, misstatement, or omission, in any memorial, schedule, plan, section, estimate, notice, or other document or proceeding under this Act, prepared, lodged, registered, given, or taken by or to the said Commissioners of Public Works, shall invalidate the same or any of them, or any of the proceedings under this Act, nor shall any error or omission whatever in any of the proceedings preliminary to the order for a loan, or in any such order, affect or invalidate any such proceedings or order, or the powers and authorities of the said commissioners, or prevent the proceeding with the execution of any works under this Act, or the doing all matters in the judgment of the said commissioners requisite for carrying the provisions of this Act into effect, or affect any matter or thing done or omitted to be done by the said commissioners in and about the matter of this Act, or invalidate or affect any rent-charge chargeable under this Act; and it shall not be lawful for any person whomsoever to question or appeal against or in respect of any thing so done or omitted to be done by the said commissioners; nor shall any proceeding by or on behalf of the said

Errors and omissions not to invalidate proceedings.

commissioners be removable by certiorari or otherwise into any of her Majesty's courts of record.

Regulations for placing monies at the disposal of the Paymaster of Civil Services for advances under this Act.

L.R. 1954

~~24. It shall be lawful for the Treasury from time to time to make such rules and regulations as they may consider necessary for the purpose of placing at the disposal of the Paymaster of Civil Services in Ireland such sums of money as may from time to time be necessary for the purpose of making loans and advances under the provisions of this Act, to be from time to time made on the certificate of the said Commissioners of Public Works.~~

Two separate accounts to be opened by the Bank of Ireland.

25. The Bank of Ireland shall cause two separate accounts to be opened in their books with the Paymaster of Civil Services in Ireland, one under the title of "Improvement of Land Advances Account," and the other under the title of "Improvement of ~~Lands Repayments Account.~~"

Commissioners, with the sanction of the Treasury, may make loans.

26. If the said Commissioners of Public Works shall think that a loan in respect of any such application would be expedient, it shall be lawful for the said commissioners, by and with the sanction of the Treasury, to make such loan, and to certify to the Paymaster of Civil Services for the issue of the instalments of the same, as after mentioned, to the owner of the land by whom such application shall have been made, or, in case his interest shall have determined at the date of the first or any subsequent instalment, to the owner for the time being of such land, or to such other party or parties as they shall think fit: Provided always, that no loan shall be made under this Act for a less sum than the sum of one hundred pounds.^[1]

Minimum loan.

Every loan to be issued by instalments.

27. Every loan to be made by the said Commissioners of Public Works under this Act shall be made and issued by instalments, not exceeding at any time one-fifth of the entire sum, together with the costs and expences of investigation as aforesaid; and no second or any subsequent instalment of any such loan shall be made until it shall have been proved to the satisfaction of the said commissioners, in such manner as they shall require, that the preceding instalment has been properly expended on such works or improvement, pursuant to the plan, specification, and estimate which shall have been sanctioned and approved of by the said commissioners, or such other plan, specification, or estimate as the said commissioners may think fit from time to time to sanction and approve of: Provided always, that no one instalment of any such loan shall in any case exceed the sum of five hundred pounds.

Commissioners to take security for due application of the money.

28. It shall be lawful for the said Commissioners of Public Works, either before or after any advance on account of any loan under this Act shall be made, to require and take such security, by bond or otherwise, as they may think right, from

[¹ Now fifty pounds. See 55 & 56 Vict. c. 65. s. 9.]

every or any person to whom any such loan may be agreed to be made as aforesaid, or who may become entitled to receive any part thereof, or from any other person jointly with or on behalf of any such person, such security to be conditioned to apply the monies advanced or to be advanced to and for the purposes specified in the plan, specification, and estimate from time to time approved of by the said commissioners, and to no other purpose whatsoever, and also well and truly to account to the said commissioners for the application of the monies to be from time to time advanced by the said commissioners, and also to lay before such commissioners, whensoever required, such statements and reports of the works for which such loan may have been made as the commissioners shall think fit, so as all such works be completed within such period as may, previously to making any such loan or advance, be fixed by the said commissioners, or within such further period as they may fix from time to time. . . .

29. All labourers hired or employed to execute any works or improvements effected under the authority of this Act shall receive the full value or consideration which shall be agreed to be given for their labour respectively in the current coin of the realm, and not otherwise. Labourers to be paid in money.

30. Whenever any works shall have been commenced or shall be carried on under this Act according to any plan, specification, or estimate which shall have been originally approved of by the Commissioners of Public Works, and it shall, from any alteration of circumstances, appear to the commissioners that it would be expedient so to do, it shall be lawful for the said commissioners, on the application of any owner for that purpose, from time to time to sanction the alteration or modification of any such plans, specifications, or estimates so originally approved of, to such extent as may be sufficient for the purposes of this Act, and to direct the works to be carried on according to the plan, specification, or estimate so altered or modified; and in case any such alteration or modification shall require the advance of any further sum of money for the completion of the works, not exceeding one-fifth part of the loan originally sanctioned, it shall be lawful for the said commissioners, with the sanction of the Treasury, to advance any such further sum as shall be necessary; and the order of the commissioners directing any such further advance shall be sufficient, without any formal application or other proceeding as is herein-before directed with respect to the original charge, and shall be registered in like manner as any order herein-before authorized to be made for advancing any money, and shall have the same effect as any such order so herein-before authorized; and the lands therein specified shall thereon become charged with the payment in manner by this Act directed of a rent-charge bearing such proportions as aforesaid to the amount of such further advance. Commissioners, on application of owners, may sanction alterations in plans, and make further advances, if necessary.

Commissioners
may sanction
alterations in
or reduction of
loan.

31. Where any works shall have been commenced or shall be carried on under this Act according to any plan, specification, or estimate which shall have been originally approved of by the Commissioners of Public Works, and it shall appear to the said commissioners, from any alteration of circumstances or otherwise, that the estimate or the works originally proposed may be modified or altered by reducing the same, it shall be lawful for the said commissioners from time to time to alter or modify any such plans, specifications, or estimates so originally approved of, by reducing the proposed works or the estimates thereof, so always that the works to be carried on according to the modified plans, specifications, or estimates shall, in the opinion of the commissioners, be of a nature to effect a sufficient improvement for the purposes of this Act in the annual value of the lands; and also it shall be lawful for the said commissioners, by any order as aforesaid, without any previous sanction of the Treasury, to withhold any instalment or part of the loan originally agreed to be made for the proposed works, to an extent corresponding in their judgment to the diminished expenditure, and to diminish the rent-charge which would otherwise have become charged on the lands in proportion to the diminished advance so to be made.

Provisions as
to alterations,
&c. to apply
where lands
have been
entered on
for default.

32. The provisions herein-before contained as to the alteration or modification of any plans, specifications, or estimates shall apply as well in cases where the works shall be carried on by or on behalf of the said Commissioners of Public Works having entered on any lands as by this Act is provided for any default, as where they shall be carried on by any other person.

In default of
due application
of any instal-
ment of loan
commissioners
may stop ad-
vances; or
may enter upon
lands and com-
plete the works.

33. If default shall be made in the due application of any instalment of any loan made for the purpose of this Act, or if the owner to whom any such loan may have been agreed to be made, or if the person for the time being bound to execute the works for which such loan shall have been agreed to be made, shall omit or neglect so to do, it shall be lawful for the said Commissioners of Public Works, with the sanction of the Treasury, to stop all further advances in respect to such works; or it shall be lawful for the said Commissioners of Public Works, with such sanction as aforesaid, or any person authorized by them for that purpose, (if they shall think fit, either for the benefit of the person entitled next in remainder or reversion to the said lands on the security of which any such loan shall have been agreed to be made, or for the purpose of better securing such loan,) to enter upon such lands, and proceed to complete the necessary works; and all monies paid by the said Commissioners of Public Works for the completion of the works shall be taken as part of the loan agreed to be by them made, and shall be repaid by such rent charge out of such lands, to be raised from such lands in manner herein-before provided; and in every such case it shall be lawful for the said Commissioners of Public Works, by any order in that behalf, to fix the date from which

Cost of com-
pletion, how
to be secured
or paid.

any rent-charge in respect of any payment made by them after having so entered shall be computed, and the day whereon the first payment thereof shall be made, and also for the completion of any such works as aforesaid to apply any monies which may be recovered by them under any security to be given to them as aforesaid for the completion of the said works.

34. In any case in which the said Commissioners of Public Works shall have entered as by this Act is provided upon any lands for the completion of any works, if the residue of the monies originally agreed to be advanced by the said commissioners shall not in the judgment of the said commissioners be sufficient to complete the works, it shall be lawful for the said commissioners, with the sanction of the Treasury, to expend such further sum as they may think beneficial to all persons interested in the land, and necessary to make any works commenced available for the improvement of the land; and the order of the said Commissioners of Public Works directing any such further expenditure shall be registered in like manner, and shall have the same effect, as any order directing an advance; and the lands therein specified shall, from the date of such order, become charged with the payment, in manner by this Act directed, of a rent-charge bearing such proportion as aforesaid to the amount of such further advance; and in any such case it shall be lawful for the said commissioners, by any such order, to fix the date from which any such rent-charge shall be computed, and the day whereon the first payment thereof shall be made.

Power to commissioners, in case of entering to complete works, to expend such further sum as may be necessary, and to charge the same on the land.

35. Nothing herein contained shall be construed to prevent any owner of land which shall have been improved under the provisions of this Act from applying for a new loan, nor to prevent the Commissioners of Public Works, with the sanction of the Treasury, as herein-before directed, from making any new loan, under the provisions of this Act, on the security of lands already improved, as often as it shall appear to them that any new works proposed will effect (either immediately or prospectively) an improvement in the annual value of the lands intended to be improved to an amount exceeding the utmost annual amount to be charged thereon under this Act in respect of the new loan applied for; and all the provisions in this Act contained with respect to any first application for a loan, and the proceedings thereon, shall apply to any application for a fresh loan in respect of lands already improved under this Act.

New loans on the security of lands already improved.

36. It shall be lawful for any such owner, upon receiving any part of such loan as aforesaid, or sooner, if sanctioned by the said Commissioners of Public Works, by himself, his engineers, agents, and workmen, from time to time to enter upon any lands of which he shall be owner within the provisions of this Act, making such compensation to any person or persons for any damage or injury done thereby, in the same manner, and subject to the like provisions, as in cases of compensation to be made by the said Commissioners of Public Works in respect of any damage

Owner may, upon receiving part of loan, enter upon lands of which he is owner, and execute works.

done by the said commissioners, (except as to the adding of any damage to the sum in respect of which a rent-charge is to be charged under this Act,) and to execute all the necessary works for which such loan may be made, notwithstanding that any other person or persons may have any other estate or interest in the same lands.

A rent-charge of 6*l.* 10*s.* for every 100*l.* advanced, payable to her Majesty for 22 years, to be charged on lands improved.

37. In case any loan shall be made under this Act, the lands specified in such order of the said Commissioners of Public Works as before mentioned for the making of such loan shall from the date of such order become charged with the payment to her Majesty of an annual rent-charge of six pounds ten shillings for every one hundred pounds of such loan from time to time advanced, including such costs and expences of investigation as aforesaid, and so on in proportion for any lesser amount, and to be payable for the term of twenty-two years, to be computed from the fifth day of April or tenth day of October which shall next happen after the advance in respect of which the rent-charge shall be charged, such rent-charge to be paid by equal half-yearly payments on the fifth day of April and tenth day of October in every year, the first of such payments to be made on the second of such days which shall happen next after the issue of any such advance in respect of which the rent-charge shall be charged.

Rent-charges to have priority over all other charges, save quit-rents, rent-charges, &c. 5 & 6 Vict. c. 89., &c.
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38. Every such rent-charge to be secured by virtue of this Act shall take priority of all charges and incumbrances whatsoever and whensoever made, save and except quit-rents and rent-charges in lieu of tithes, and also save and except all charges prior in date, if any, existing under and by virtue of the Drainage (Ireland) Act, 1842, and two other Acts since passed amending the same Act, or under and by virtue of this Act.

Recovery of rent-charge by appointment of receiver in default of payment.

39. If any half-yearly payment of such rent-charge shall remain unpaid by the space of twenty-one days next after the day on which the same should be paid as aforesaid, then it shall be lawful for the Court of Chancery in Ireland, upon the petition of the Attorney General for Ireland for the time being, to appoint a receiver of the rents, profits, and issues of the lands liable to any such rent-charge, who shall have the same powers as any other receiver of the said Court of Chancery, and shall apply the same rents, profits, and issues (after deduction of the necessary expences of the application to the said court, and the other expences consequent thereon, and after payment of all outgoing in respect of any charges or incumbrances having priority under this Act, and the costs of collection and of the receiver) in or towards payment of the said rent-charge.

Recovery of rent-charge under 50*l.* when unpaid for thirty-one days.

40. If any such rent-charge, or any half-yearly payment thereof, or any part thereof (not exceeding in amount the sum of fifty pounds,) shall remain unpaid for the space of thirty-one days next after the the same shall be due, then, in addition to the other powers in and by this Act given, it shall be lawful for the Attorney

General for Ireland for the time being to recover the same by civil bill against the person who for the time being under this Act was or shall from time to time be liable to pay the same.

41. The rent-charges which shall become chargeable on lands under this Act shall be paid to such person or in such manner as the Treasury may from time to time signify and appoint, by notice to be published in the Dublin Gazette for that purpose; and all monies so paid shall be paid into the Bank of Ireland to the credit of the Paymaster of Civil Services, and by him carried to the account of the Consolidated Fund; and the receipt of any person so appointed, or of the said Paymaster, as the case may be, shall be a sufficient discharge for the same.

Rent-charges to be paid as directed.

Application of monies paid.

42. Provided always, that, if any owner shall so desire it, the amount of such rent-charge may, with the sanction of the Treasury, be increased to such amount as will repay the sum so advanced sooner than the said period of twenty-two years herein-before appointed for the payment of such rent-charge, such increased amount of rent-charge to be calculated according to the table in the schedule (B.) hereunto annexed for that purpose.

The rent-charge may be increased so as to pay off sum advanced sooner than time appointed.

43. Every owner of land so charged as aforesaid, and absolutely entitled thereto, shall be the party to pay the said rent-charge; and every owner of land for the time being within the meaning of this Act, being tenant for life, or having a limited or determinable interest in the lands charged, and every succeeding tenant for life or other person having a limited or determinable interest in such land liable to such rent-charge, shall, as between such person and the persons in remainder or reversion, be bound to pay the half-yearly payments of such rent-charge which shall become payable during the continuance of his interest, and, in case he shall be in the actual occupation of or entitled to an apportioned part of the rents and profits of such land up to the time of the termination of his interest, shall also be bound to pay an apportioned part of the half-yearly payment of such rent-charge which shall become due next after the termination of his interest, proportioned to the time which shall have elapsed between the day of the previous half-yearly payment and the day of such termination.

Owners for the time being to keep down rent-charges.

44. Any person entitled to land charged with any such rent-charge shall be at liberty, at any time before the expiration of twenty years after the commencement thereof, to redeem such rent-charge or any part thereof, not being less than ten pounds annual charge, on payment to the Paymaster of Civil Services of the arrear (if any) thereof, and of such sum as shall be equal to the value of such rent-charge, to be ascertained according to the table in schedule (C.) hereunto annexed for that purpose; and the said Paymaster of Civil Services shall issue and deliver to such owner a certificate of such redemption; and all monies to be so paid to the Paymaster of Civil Services shall be applied

Redemption of rent-charges.

by him in the manner herein provided with respect to monies to be received for rent-charges.

Occupiers, &c.
paying rent-
charges on
account of
owners, entitled
to deduct the
same from
their rents,
&c.

45. Every occupier of land who, not being the owner thereof within the meaning of this Act, and liable to the rent-charge charged thereon, shall pay any sum of money for the land in his occupation on account of any such rent-charge, shall be authorized to deduct from and out of his rent the amount of the sum of money which he shall so pay as aforesaid; and the next immediate landlord of such occupier, if not himself such owner, and liable to such rent-charge as aforesaid, shall be authorized to make the like deduction from the rent payable by him, and so on, each sub-lessee and sub-lessor of such land (not being such owner) being entitled to deduct the sum so paid on account of such rent-charge from and out of the rent payable to his next immediate landlord, until such deduction shall be made from the rent payable to a person being the owner within the meaning of this Act, and liable to such rent-charge as aforesaid, who shall not be entitled to make any such deduction from the rent (if any) payable by him; and every such occupier, sub-lessee, or sub-lessor, as the case may be, paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall be any lease or agreement to the contrary made after the passing of this Act); but nothing herein contained shall extend or be construed to enable any such occupier, sub-lessee, or sub-lessor to deduct from his rent any costs or expences incurred by the nonpayment of the monies charged and to be levied under and by virtue of this Act.

Commissioners
may fix in-
creased rents
to be paid by
tenants of
lands im-
proved.

46. In case any land which shall be so improved as aforesaid shall at any time, not later than twelve months after the completion of the works for the improvement thereof, be in the occupation of any person who shall not be the owner thereof within the meaning of this Act liable to such rent-charge, then and in every such case the said Commissioners of Public Works shall, if required so to do by or on behalf of the owner of such land for the time being liable to such rent-charge, or by or on behalf of the occupier of such land, determine the amount of increased rent, if any, which the occupier of such lands ought (immediately or prospectively, at one fixed or at a progressive rent,) to pay by reason of the improving thereof under the provisions of this Act, and shall signify their determination by endorsement in writing on the lease or other instrument, if any, by which such lands may be held, or by a separate instrument under their corporate seal; in which determination the commissioners shall be bound to have regard and as far as possible to give effect to any agreement which shall be shown to their satisfaction to have been entered into by the proprietor and any person or persons having an immediate or derivative title from him in the said lands respecting the improvement thereof under the pro-

visions of this Act ; and the occupier of such lands shall pay to his next immediate landlord the said increased rent, and the immediate landlord of such occupier, if not himself such owner as last aforesaid, shall pay the said increased rent to his immediate landlord, and so successively each sub-lessor and sub-lessee of such land, not being such owner as last aforesaid, shall pay the same to his immediate landlord, until such payment shall be made to the owner of such lands within the meaning of this Act ; and the said increased rent shall be due and payable at the same times as the rent originally reserved would be due and payable between the respective parties and the landlord of such occupier ; and every landlord entitled under the provision aforesaid shall have the same remedies for the recovery of such increased rent as he or they might have or were entitled to have for the rent originally reserved.

47. It shall be lawful for the said Commissioners of Public Works, ~~with the sanction of the Treasury~~, from time to time and at any time when and so often as by reason of the improvement in value of any lands in respect of which any loan shall have been made under this Act, or by reason of the redemption of any part of the loan, any portion of the lands charged with any rent-charge shall appear to them a sufficient security for the whole of such rent-charge, by any deed or instrument under their common seal to release any of the lands originally charged with the said rent-charge from the payment thereof ; and no release of any portion of the lands charged with a rent-charge under this Act shall in anywise avoid, diminish, or affect any remedies by this Act given, or otherwise to be had and exercised, for the recovery of such rent-charge in respect of the residue of the lands therewith charged : Provided nevertheless, that such release shall not be effectual unless the same be made with the consent in writing of all persons having any charge or incumbrance on such part of the land as shall continue liable to the rent-charge.

A portion of lands liable to rent-charge may be released in certain cases.

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48. It shall be lawful for the said Paymaster of Civil Services from time to time, and at any time, at the request of any person to whom any money shall have been lent under this Act, or of any person for the time being liable to pay any rent-charge created under this Act, or for the time being interested in any lands charged with such rent-charge, and at the expence of the person requiring the same, to deliver or cause to be delivered to any such person a certificate under his hand showing, as the case may be, the amount of money for the time being advanced or to be advanced under the provisions of this Act on the security of the lands to be specified in any such certificate, and the respective instalments made or to be made in respect thereof, and the dates of such instalments respectively, the amount of rent-charge for the time being charged upon such lands under the provisions of this Act, the date of commencement thereof, or of

Paymaster of Civil Services to give on request certificates of amounts of advances, amounts of rent-charges, &c.

the first or any subsequent payment thereof, the number of payments made or to be made or in arrear for the time being, or any of such matters respectively; and every such certificate shall be evidence of all and every the matters therein specified.

If rent-charges
are in arrear,
Court of
Chancery may
order a sale of
the lands
charged.

R. 1954.

49. If any such rent-charge shall be in arrear for the space of two years next after any of the days on which the same should be paid as aforesaid, then and in any such case it shall be lawful for the said paymaster for the time being, after notice to the owner of such land or his known agent, ~~and by direction of the Treasury,~~ to apply in a summary manner to the Court of Chancery in Ireland for an order for the sale of all or a competent part of the lands so charged; and on satisfactory proof being adduced that the said rent-charge is so in arrear, then the said court shall by order authorize and direct the Paymaster of Civil Services, without any further process, writ, or other proceeding, by sale of the lands liable to such rent-charge, subject as herein-after mentioned, or a competent part thereof, to raise such sum of money as shall be sufficient to repay all monies due and in arrear at the time of sale in respect of such rent-charge, and of any other rent-charge charged on the said lands under this Act, and the value of the said rent-charge or rent-charges thereafter to become payable out of the lands liable to such rent-charge or rent-charges under this Act, (such value to be ascertained in the same manner as the value of any rent-charge to be redeemed as by this Act provided,) and all costs, as between solicitor and client, and other charges whatsoever attending such sale and other proceedings; and the monies so raised shall be applied, first, in discharge of all costs, charges, and expences as aforesaid; secondly, in and towards reimbursement and satisfaction of such arrears and such value of such rent-charge or rent-charges under this Act; and the surplus (if any) of such monies shall be paid either to the owner for the time being of the lands sold and absolutely entitled thereto, or (in case such owner shall be a person having a life estate or other determinable interest, or where, but for the provisions of this Act, the said lands could not have been sold,) then into the Bank of Ireland in the name and with the privity of the Accountant General of the Court of Chancery in Ireland, to be placed to his account ex parte the said paymaster, and pursuant to any law or orders for the time being in force in that behalf, and without fee or reward, such money to be applied under the direction of the said court (to be signified by any order made upon petition in a summary way presented by the persons who would have been entitled to the rents and profits of the said land) in or towards the discharge of any debts or incumbrances, or any part thereof, affecting the said land, or affecting other land settled to the same or the like uses, or upon the same or the like trusts, or in or towards the purchase of other land to be conveyed and settled to and upon the same uses, trusts, intents, and purposes, and in the same manner, as the land sold stood settled or limited to, or such of

them as at the time of such sale were existing undetermined and capable of taking effect; and in the meantime, and until any such purchase, the said money shall, by order of the said court, be invested by the said Accountant General, in his name, in the purchase of any stocks, funds, or annuities transferable at the Bank of Ireland, the dividends of the said stocks, funds, or annuities, until sale thereof, to be paid from time to time, by order of the said court, to the person who would for the time being have been entitled to the rents and profits of the land so to be purchased or settled.

50. The receipt of the Paymaster of Civil Services in Ireland for the time being shall alone be a sufficient discharge to all persons whomsoever for the purchase money of any lands sold under this Act; and such persons shall not be bound to see to or be liable for the application thereof, nor shall any such person be bound to inquire as to the value or quantity of lands sold; and any sale under this Act may be made in lots, and subject to such conditions as the vendor shall think fit, and may be bought in and re-sold, although at a loss; and any contract for sale may be altered or rescinded as the vendor shall think fit; and any conveyance or assignment executed by the Paymaster of Civil Services shall be effectual for all purposes therein expressed, and shall be binding and conclusive upon all persons whomsoever interested in the lands, and shall convey all estate, right, title, or interest whatsoever of any person whomsoever in the lands the subject of such conveyance, and shall assure the lands to such uses, upon such trusts, and in such manner, as shall be expressed in such conveyance, subject nevertheless only to any charge having priority under the provisions of this Act, and also to any chief rent as herein-after defined which shall have been reserved or payable thereout previously to the date of the order of the said commissioners, and subject to the estate or estates to which such chief rent or chief rents shall be incident, and subject to any under-tenants' or occupiers' leases at rack rent, or their interests in such lands, and subject also as may be expressed in any such conveyance or assignment, but freed from all other charges and incumbrances whatsoever; and the signature of the paymaster to any such deed shall be sufficient evidence that all the provisions of this Act have been complied with.

Receipt of paymaster to be a sufficient discharge.

Sale may be in lots, &c.

Effect of conveyance executed by paymaster.

51. Provided always, that in any case where the Paymaster of Civil Services shall proceed to sell any land as aforesaid, if the owner of such land shall be desirous that any other land settled to the same uses with the land so improved shall be sold instead of the land so improved, and such owner shall be tenant for life or incapacitated otherwise from selling such lands, it shall be lawful for such owner to apply to the High Court of Chancery in Ireland by petition in a summary way, praying that the Paymaster of Civil Services may be authorized or directed to make such sale of any such lands not liable to such rent-charge,

Owner of other lands settled to same uses as those charged, if unable to sell the same, may apply to the Court of Chancery to sell such lands instead of those charged.

but settled to the same uses as any lands liable thereto as aforesaid, and thereupon it shall be lawful for the court to make such order authorizing or directing such sale or otherwise as to the court shall seem fit: Provided always, that fourteen days notice in writing of any such application shall be given to the person entitled to the estate or interest in the lands proposed to be sold in remainder or reversion next expectant on the determination of the estate or interest of the owner whose land shall be sold as aforesaid, or to the guardian of such person being an infant, or to the husband of such person being a feme covert, or to the committee of such person being a lunatic; and provided also, that in case of any such sale the owner shall give notice to the said paymaster of such his application to the said court as aforesaid, and it may be lawful for such court, if it shall so think fit, to stay the proceedings of the said paymaster in respect to sale of any lands liable to the rent-charge for a reasonable time; and every sale directed to be made by the said court shall, unless otherwise ordered by the said court, be taken to be within the provisions of this Act as to any sale by the paymaster, and the purchase money from such sale shall be received and applied accordingly.

On payment
of rent-charge,
release to be
executed and
registered.

S.L.R. 1954.

52. On the expiration or discharge of any rent-charge, and on payment of all arrears thereof, and of all costs, charges, and expences (if any) incurred in any proceedings to recover the same, or for any sale under this Act in relation thereto, the said paymaster shall execute, and cause to be registered in the office for the registry of deeds in the city of Dublin, a release of the lands so charged with such rent-charge.

[S. 53 *rep.* 56 & 57 *Vict. c.* 53. s. 51.]

Works to be
maintained
during con-
tinuance of
rent-charge, by
person liable
to pay such
rent-charge.

54. So long as any land shall continue charged with any such rent-charge the person for the time being bound to pay such rent-charge shall be bound to uphold and maintain in good order and condition the works on account of which the lands shall have been charged as aforesaid, and in default of so upholding and maintaining any such work shall be liable to an action on the case in the nature of an action of waste for the damage thereby occasioned, at the suit of the person then entitled to the next estate in remainder or reversion in the said lands.

Sums advanced
under recited
Acts to be
considered as
advanced
under this Act,
and rent-
charges shall
be charged
under this Act
on lands
improved.

55. [Recital of 9 & 10 *Vict. cc.* 4, 101.] All money advanced or agreed to be advanced by the said Commissioners of Public Works, with the sanction of the Treasury, under either of the said last-recited Acts for such purposes, shall (unless the said Commissioners of Public Works shall otherwise specially direct) be considered as advanced and be advanced under the provisions of this Act, and as if the preliminary proceedings and investigations had been duly taken and made under this Act, and the person on whose application or assent any such advance has been made or agreed to be made had been owner of such land under the

provisions of this Act, provided the owner for the time being entitled to the land to be charged shall require to have the provisions of this Act applied to such loan, and undertake to execute the works in respect of which such loan was made according to the provisions of this Act; and thereupon the lands the subject of any such drainage or improvement shall become charged with the payment to Her Majesty of an annual rent-charge of such proportion and amount as would be chargeable in respect of any such advance if made under the provisions of this Act; and the said Commissioners of Public Works, shall, by order as aforesaid, fix the commencement of any such rent-charge, and the date of the first payment thereof; and all the provisions, powers, privileges, and authorities herein contained for securing the payment and priority or for recovery of any rent-charge charged in respect of any advance originally made under this Act, or otherwise by this Act enacted concerning any rent-charge or the lands charged therewith, shall apply, so far as applicable, to any rent-charges charged under the present provision; and all proceedings heretofore had and taken by the said commissioners under the provisions of any previous Act of her present Majesty's reign for drainage or improvement of lands shall be effectual for the purposes of this Act.

56. It shall be lawful for the said Commissioners of Public Works, upon an inquiry or proceeding to be had by or before them under any of the provisions of this Act, to summon and examine upon oath or affirmation any person whomsoever; and if any person so summoned, having been paid or tendered a sufficient sum of money, to be ascertained by the said commissioners, to defray the charges for his attendance, shall not appear before the said commissioners pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to affirm (as the case may be), or to be examined and give evidence touching the premises, the said commissioners, upon proof upon oath of the service of such summons and of such tender, shall be authorized by warrant under their common seal to direct any person whomsoever to cause any sum of money, not exceeding five pounds, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn, or to affirm or give evidence, rendering the overplus (if any), upon demand, to the person whose goods and chattels shall have been distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be applied for such purposes and in such manner as the said commissioners may direct.

Witnesses and evidence.

57. Every person upon examination on oath or affirmation before the said commissioners respectively, or any officer by them appointed as aforesaid, and also every person making any such affidavit, declaration, deposition or affirmation as aforesaid, who

Any person swearing, &c. falsely to be guilty of perjury.

shall wilfully and corruptly give false evidence, or shall in such affirmation, affidavit, declaration, or deposition wilfully or corruptly swear, affirm, or allege any matter or thing which shall be false or untrue, shall be subject to the pains and penalties of persons convicted of wilful and corrupt perjury by any law in force for the time being.

Penalty on
persons
assaulting
commissioners
or their officers.

58. Every person who shall wilfully obstruct or assault any Commissioner of Public Works, or any engineer, or other officer, servant, or workman, acting in aid or under the orders of the said commissioners, in the execution of any of the powers given by this Act, shall forfeit and pay for every such offence, upon conviction thereof by the oaths of one or more credible witness or witnesses before any justice or justices of the peace, such sum, not exceeding five pounds, as such justice or justices shall think fit, to be applied in such manner and for such purposes as the said justice or justices shall direct, . . .

Bonds, &c.
under this Act
exempt from
stamp duty.

59. No bond, obligation, or other security, contract, agreement, or other instrument whatever, taken or made to or by the said commissioners, nor any affidavit, deposition, release, receipt, or discharge to be respectively taken or made under and by virtue of this Act to or by them, nor any power of attorney to receive from the said Paymaster of Civil Services any monies advanced on account of loans under this Act, nor any other instrument whatsoever executed under the provisions of this Act, nor any memorial thereof for registration, shall be liable to any stamp duty whatever.

Notices sent
by the post
deemed suffi-
cient.

60. All notices requiring to be served by or on behalf of the said commissioners or otherwise under the provisions of this Act upon any person may be transmitted through the post, directed to the last known address of such person, within such period as to admit of its being delivered in due course of delivery within the period, if any, prescribed for the giving of such notice; and in proving any service by post it shall be sufficient to prove that the notice was properly directed, and so put into the post office as before directed.

Penalty on
officers refus-
ing to deliver
up documents.

61. If any engineer, surveyor, agent, officer, or servant employed by the said commissioners in any matter relating to proceedings under the provisions of this Act shall refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the said commissioners, or to any person authorized by them for that purpose, any survey, map, plan, estimate, specification, book, paper, or document belonging to the said commissioners, or to any owner of lands proposed to be improved under the provisions of this Act, in the possession or custody of such engineer, surveyor, agent, officer, or servant, any such person shall for every such offence forfeit and pay a sum not exceeding twenty pounds, to be recovered in a summary way before any two justices at petty sessions, and levied under the

warrant of such justices by distress and sale of the goods of the person so refusing or neglecting; and it shall be lawful for such justices to order any constable, with proper assistance, to search for and take possession of any such survey, map, plan, estimate, specification, book, paper, or document, and to deliver the same to the said commissioners, or any person authorized by them to receive the same.

62. [*Recital.*] It shall be lawful for the commissioners, upon the application in writing of the persons interested as owners, as herein-before defined, except owners under a lease reserving rent for a life or lives, or for a term of years, in any lands which shall be drained or improved under the provisions of this Act, or in any lands adjacent to any such lands, and who shall desire to effect an exchange of lands in which they respectively shall be so interested, to direct inquiries whether such proposed exchange would be beneficial to the owners of such respective lands, and has been rendered necessary or expedient by reason of any such drainage or improvement as aforesaid; and in case the commissioners shall be of opinion that such exchange would be beneficial, and that the terms of the proposed exchange are just and reasonable, they shall cause to be framed and confirmed, under the hands and seal of the commissioners, an order of exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the lands given and taken in exchange by each person so interested respectively; and a copy of such order, under the seal of the commissioners, shall be delivered to each of the parties on whose application the exchange shall have been made, and such order of exchange shall be good, valid, and effectual in the law, to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the land taken upon every such exchange shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the lands given on such exchange would have stood limited or been subject to in case such order had not been made; and all expences with reference to such order and exchange, or the inquiries in relation thereto, or to any proposed exchange, shall be borne by the persons on whose application such order shall have been made, or such inquiries undertaken: . . . Provided also, that no one lot or parcel of land given or taken in exchange shall ever exceed ten acres; and it shall be lawful for the said commissioners to authorize the payment of any sum of money by way of equality of exchange, or in respect of any such exchange, and the monies so given shall be paid and divided by the said commissioners in such manner as they shall think fit, and for the compensating the parties interested in the land given in exchange, and according to their respective estates and interests, and the decision of the commissioners in the premises shall be binding.

Exchanges
may be made
of land.

Notices of
and objections
to exchanges.

63. Provided always that no such order of exchange as aforesaid shall be confirmed by the commissioners until notice shall have been given by advertisement in three successive weeks of such proposed exchange, and three calendar months shall have elapsed from the publication of the last of such advertisements; and in case before the expiration of such three calendar months any person entitled to any estate in or to any charge upon any land included in such proposed exchange shall give notice in writing to the commissioners of his dissent from such proposed exchange, the commissioners shall not confirm an order for such exchange unless such dissent shall be withdrawn, or it shall be shown to the commissioners that the estate or charge of the party so dissenting shall have ceased.

Commissioners
to certify the
share of the
expences of any
exchange pay-
able by any
person, in case
of difference.

Payment may
be enforced by
distress.

64. If any difference shall arise touching the said expences in relation to any exchange, orders, or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the commissioners to certify under their hands and seal the amount to be paid by such person; and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any two justices of the peace for the county or other jurisdiction wherein the land shall be situate, such justices upon the non-payment thereof, are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress.

Provisions as
to consent of
Admiralty, &c.
as to foreshore,
&c.

65. Notwithstanding any thing in this Act or in the Acts herein recited or referred to contained or implied to the contrary, it shall not be lawful for any person or persons to embank or reclaim from the sea or tidal waters or rivers any shore, mud bank, or slob belonging to her Majesty in right of the crown, or to reclaim waste or other lands belonging to her Majesty in right of her crown, or to construct works on any such lands, nor shall it be lawful for the said commissioners to make loans to any person or persons for the purposes aforesaid, without the previous consent of her Majesty, to be signified in writing under the hands of two of the Commissioners of Woods, and, as far as regards the embankment or reclamation of lands from the sea or tidal waters or rivers, or the construction of works below high-water mark, without the previous consent also of the Lord High Admiral, or Commissioners for executing the office of Lord High Admiral of the United Kingdom, to be signified in writing under the hand of the Secretary of the Admiralty for the time being, except in those cases wherein the soil and bed of the tidal waters and rivers, and rights of vice admiralty and conservancy, have been granted by the crown to and are now vested in any other body.

Construction
of terms in
this Act.

66. In the construction of this Act, except where the nature of the provision or the context of this Act shall exclude such construction, the word "land" shall extend to all hereditaments corporeal or incorporeal, and any estate or interest therein, and

any undivided part thereof, or any charge or incumbrance thereon; and the words "person or persons" shall extend to all bodies politic, corporate, or collegiate, . . . and to any number of persons associated together as a company or partnership; and the word "lease" shall include an agreement for a lease; . . . and the word "owner" shall include the reputed owner; the expression "chief rent" shall include all rents reserved upon or payable out of or in respect of the estate or interest of any person being an owner within the meaning of this Act, or any estate or interest paramount thereto; and every word importing the singular number only shall extend to several persons or things as well as to one person or thing; and every word importing the plural number shall extend to one person or thing as well as to several persons and things; and every word importing the masculine gender only shall extend to a female as well as to a male; the word "commissioners" or the words "the said commissioners" shall mean the Commissioners of Public Works in Ireland for the time being, or any two of them, except where otherwise expressed; and the words "Paymaster of Civil Services" shall mean the Paymaster of Civil Services in Ireland for the time being.

[S. 67 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

SCHEDULES referred to in this Act.

SCHEDULE (A.).

Sect. 11.

Form of memorial, under Vict. cap.

To the Commissioners of Public Works in Ireland.

The memorial of the undersigned,

Showeth,

THAT your memorialist is, within the meaning of the Landed Property Improvement (Ireland) Act, 1847, owner of the lands mentioned in the schedule hereunto annexed.

That your memorialist proposes to increase the value of the said lands by*, as mentioned in or to be inferred from the annexed report, plan, estimate, and specification, which your memorialist prays may be respectively considered as part of this his memorial.

* Here state the proposed works.

That he is desirous of obtaining a loan for that purpose, to be secured by a rent-charge on the lands mentioned in the said schedule, under the provisions of the above-mentioned Act.

That the present annual value of the lands is the sum of pounds, and that the quit rent[s] and rent-charge[s] in lieu of tithes now charged upon the same lands amount together to the annual sum of pounds, as more particularly set forth in the said schedule.

That the expence of effecting such in manner aforesaid is estimated at the sum of pounds sterling, as more particularly mentioned and set forth in the estimate annexed; and that the estimated increase in the annual value expected to arise to the said

* State what estate or interest the memorialist has in the lands, and the particulars of the title by which the memorialist is constituted an owner within the meaning of the Act, having regard to the provisions of the Act. Also state whether the whole of said lands are held under one and the same interests or title, and what extent is held thereby, and if under different interests or titles, how much under each.

† State the occupation, residence, and post town, of applicant and witness.

lands in said schedule, the subject of such proposed improvements, amounts to pounds, as set forth in the annexed report.
And this memorialist further states and specifies, that his estate and interest in the said lands and premises is as follows : *
And this memorialist now applies and asks for the advance of the sum of pounds by way of loan, under the provisions of the said Act, for defraying the expence of the proposed works, with such alterations and modifications as the Commissioners of Public Works may approve of.

Dated at this day of 18 .
Witness of signature of owner. †

SCHEDULE.

Owner.	Occupier.	Townland, with the denomination or reputed name or names by which the lands are known.	Barony or parish, distinguishing which.	County.	Probable quantity of land.	Quit rents.	Rent-charges in lieu of tithes.

SCHEDULE (B.) Sect. 42.

Table for calculating rent-charges to be paid off in less time than twenty-two years.

Reduced period.		Annual rent-charge for such period for each 6l. 10s. of rent-charge.				
Annual rent-charge, if it is to last	{	21 years	£. Decimals.	In sterling money		£ s. d.
		20 —	6·7091 - - -	—	—	6 14 2½
		19 —	6·9398 - - -	—	—	6 18 9½
		18 —	7·1958 - - -	—	—	7 3 11½
		17 —	7·4812 - - -	—	—	7 9 7½
		16 —	7·8013 - - -	—	—	7 16 0¼
		15 —	8·1626 - - -	—	—	8 3 3½
		14 —	8·5734 - - -	—	—	8 11 5½
		13 —	9·0441 - - -	—	—	9 0 10½
		12 —	9·5887 - - -	—	—	9 11 9½
		11 —	10·2256 - - -	—	—	10 4 6¼
		10 —	10·9801 - - -	—	—	10 19 7¼
		9 —	11·8874 - - -	—	—	11 17 9
		8 —	12·9984 - - -	—	—	12 19 11½
		7 —	14·3895 - - -	—	—	14 7 9½
		6 —	16·1808 - - -	—	—	16 3 7½
		5 —	18·5724 - - -	—	—	18 11 5½
		4 —	21·9244 - - -	—	—	21 18 5½
		3 —	26·9574 - - -	—	—	26 19 13¼
		2 —	35·3520 - - -	—	—	35 7 0½
		1 —	52·1508 - - -	—	—	52 3 0½
		1 —	102·5666 - - -	—	—	102 11 4

NOTE.—This table is calculated on the assumption that a yearly rent-charge of 6l. 10s. continuing for a term of 22 years (but payable half-yearly) is equivalent to the sum of 190l. in ready money.

SCHEDULE (C.)

Sect. 44.

Table for the redemption of rent-charges.

Term unexpired.	Redemption money to be paid in respect of each 10l. of rent-charge.		
	£. Decimals.	In sterling money	£ s. d.
$\frac{1}{2}$ year	4.91612	—	4 18 4
1 —	9.74976	—	9 15 0
$1\frac{1}{2}$ —	14.50232	—	14 10 $0\frac{1}{2}$
2 —	19.17514	—	19 3 6
$2\frac{1}{2}$ —	23.76957	—	23 15 $4\frac{3}{4}$
3 —	28.28693	—	28 5 $8\frac{1}{2}$
$3\frac{1}{2}$ —	32.72850	—	32 14 $6\frac{3}{4}$
4 —	37.09555	—	37 1 11
$4\frac{1}{2}$ —	41.38935	—	41 7 $9\frac{1}{2}$
5 —	45.61111	—	45 12 $2\frac{1}{2}$
$5\frac{1}{2}$ —	49.76204	—	49 15 3
6 —	53.84334	—	53 16 $10\frac{1}{2}$
$6\frac{1}{2}$ —	57.85617	—	57 17 $1\frac{1}{2}$
7 —	61.80168	—	61 16 $0\frac{1}{2}$
$7\frac{1}{2}$ —	65.68100	—	65 13 $7\frac{1}{2}$
8 —	69.49524	—	69 9 $10\frac{1}{2}$
$8\frac{1}{2}$ —	73.24548	—	73 4 11
9 —	76.93282	—	76 18 $7\frac{3}{4}$
$9\frac{1}{2}$ —	80.55829	—	80 11 2
10 —	84.12295	—	84 2 $5\frac{1}{2}$
$10\frac{1}{2}$ —	87.62780	—	87 12 $6\frac{1}{2}$
11 —	91.07365	—	91 1 $5\frac{1}{2}$
$11\frac{1}{2}$ —	94.46209	—	94 9 3
12 —	97.79349	—	97 15 $10\frac{1}{2}$
$12\frac{1}{2}$ —	101.06900	—	101 1 $4\frac{1}{2}$
13 —	104.28956	—	104 5 $9\frac{1}{2}$
$13\frac{1}{2}$ —	107.45609	—	107 9 $1\frac{1}{2}$
14 —	110.56950	—	110 11 $4\frac{1}{2}$
$14\frac{1}{2}$ —	113.63067	—	113 12 $7\frac{1}{2}$
15 —	116.64049	—	116 12 $9\frac{3}{4}$
$15\frac{1}{2}$ —	119.59980	—	119 12 0
16 —	122.50948	—	122 10 $2\frac{1}{2}$
$16\frac{1}{2}$ —	125.37035	—	125 7 5
17 —	128.18322	—	128 3 8
$17\frac{1}{2}$ —	130.94891	—	130 18 $11\frac{3}{4}$
18 —	133.66818	—	133 13 $4\frac{1}{4}$
$18\frac{1}{2}$ —	136.34188	—	136 6 10
19 —	138.97065	—	138 19 5
$19\frac{1}{2}$ —	141.55530	—	141 11 $1\frac{1}{4}$
20 —	144.09673	—	144 1 $11\frac{1}{4}$
$20\frac{1}{2}$ —	146.59544	—	146 11 11
21 —	149.05229	—	149 1 $0\frac{1}{2}$

NOTE.—This table is calculated on the assumption that a yearly rent-charge of 6l. 10s. continuing for a term of 22 years (but payable half-yearly) is equivalent to the sum of 100l. in ready money.

CHAPTER XXXIII.

AN ACT to amend the Laws relating to the Removal of poor Persons from England. [21st June 1847.]

[*Preamble recites 8 & 9 Vict. c. 117 ; 8 & 9 Vict. c. 83.*]

Guardians, &c.
may take per-
sons whom
they believe to
be removable
under the first-
recited Act
before two jus-
tices, without
summons, &c.

[1.] It shall be lawful for any guardian, relieving officer, or overseer of any parish or union in England to take and convey before two justices of the peace, without summons or warrant, every poor person who shall become chargeable to any parish in England, and who he may have reason to believe is liable to be removed from England under the first-recited Act; and the justices before whom any such person shall be so brought shall hear and examine and proceed in the same manner in all respects as if such person had been brought before them under and in the manner directed by that Act.

[*S. 2 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Persons taking
paupers before
justices to have
powers of con-
stables.

3. Every person who by this Act is authorized to take and convey any poor person before any . . . justices shall in the execution of this Act in that behalf have and exercise all the rights, privileges, powers, and immunities with which a constable is by law invested.

Interpretation.

4. In the construction of this Act the singular number or masculine gender shall, except when the context excludes such construction, be understood to include and shall be applied to several persons, matters, or things, as well as to one person, matter, or thing, and to females as well as males respectively; and the words "justices of the peace" shall be understood to include and extend to a justice of the peace or magistrate of a county, county of a city, or county of a town, or of any city or town corporate.

[*S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XXXIV.

AN ACT for consolidating in One Act certain Provisions usually contained in Acts for paving, draining, cleansing, lighting, and improving Towns.^[1] [21st June 1847.]

[*Preamble.*]

Incorporation
of this Act
with special
Act.

[1.] This Act shall extend only to such towns or districts in England or Ireland as shall be comprised in any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the town or district which shall be

[¹ Short title, "The Towns Improvement Clauses Act, 1847." See s. 4.]

comprised in such Act, and to the commissioners appointed for improving and regulating the same, so far as such clauses shall be applicable thereto respectively, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

And with respect to the construction of this Act, whether incorporated in whole or in part with any other Act, and of any Act incorporated therewith, be it enacted as follows : *Interpretation.*

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed for the improvement or regulation of any town or district, or of any class of towns or districts, defined or comprised therein, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the commissioners" shall mean the commissioners, trustees, or other persons or body corporate intrusted by the special Act with powers for executing the purposes thereof. "The special Act:"
"Prescribed:"
"The commissioners."

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number : Interpretations in this and the special Act:

Words importing the masculine gender shall include females : Gender:

The word "person" shall include a corporation, whether aggregate or sole : "Person:"

The word "lands" shall include messuages, lands, tenements, and hereditaments, of any tenure : "Lands:"

The word "street" shall extend to and include any road, square, court, alley, and thoroughfare, within the limits of the special Act : "Street:"

The word "month" shall mean a calendar month : "Month:"

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the same may require : "Superior courts:"

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath : "Oath:"

The word "county" shall include riding or other division of a county having a separate commission of the peace, and shall also include county of a city or county of a town : "County:"

- “Justice:” The word “justice” shall mean justice of the peace acting for the place where the matter requiring the cognizance of any justice arises; and where any matter is authorized or required to be done by two justices, the expression “two justices” shall be understood to mean two or more justices met and acting together.
- “Two justices:”
- “Quarter sessions:” The expression “quarter sessions” shall mean quarter sessions as defined in the special Act, and if such expression be not there defined shall mean the court of general or quarter sessions of the peace which shall be held in or at the place nearest to the district in which the matter arises requiring the cognizance of any such court, and having jurisdiction over such district:
- “Owner:” The word “owner,” used with reference to any lands or buildings in respect of which any work is required to be done, or any rate to be paid, under this or the special Act shall mean the person for the time being entitled to receive, or who, if such lands or buildings were let to a tenant at rackrent, would be entitled to receive, the rackrent from the occupier thereof:
- “Cattle.” The word “cattle” shall include horses, asses, mules, sheep, goats, and swine.
- Citing the Act.* — And with respect to citing this Act or any part thereof, be it enacted as follows:
- Short title of this Act. 4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression “The Towns Improvement Clauses Act, 1847.”
- Form in which portions of this Act may be incorporated with other Acts. 5. For the purposes of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.
- Officers.* — And with respect to the officers to be appointed by the commissioners or under any general town improvement Act, be it enacted as follows:
- Meaning of inspector and provision as to execution of works before inspector is appointed. 6. When by this or the special Act any matter is required to be submitted to, or to be done with the approval of, the inspector, such inspector shall be understood to mean an inspector appointed under any general Act passed in this or any future session of Parliament authorizing the appointment of inspectors for inspecting or superintending works connected with paving, draining, or improving towns or populous districts; and until such an officer is appointed under any such general Act the

commissioners, unless it be otherwise provided by the special Act, may proceed in the execution of this and the special Act without the approval of such officer, and as if no such officer had been mentioned in this or the special Act.

7. The commissioners shall appoint, ^{Appointment and salary of surveyor.} subject to the prescribed approval, or, where no approval is prescribed, subject to approval by one of her Majesty's Principal Secretaries of State, a person, duly qualified, to act as a local surveyor of the paving, drainage, and other works authorized under the provisions of this and the special Act, and of any Act to be incorporated therewith, and, with the like approval, shall fix the salary to be paid to such surveyor, and shall pay such salary out of the rates levied under this or the special Act; and if any such surveyor die, resign, or be removed, the commissioners shall, with the like approval, appoint another person, so duly qualified, in the room of the surveyor so dying, resigning, or removed; and the commissioners, with the like approval, may remove any such surveyor.

8. Every such surveyor upon his appointment, and before he enters upon the duties of his office, shall make and subscribe before the chairman of the commissioners a declaration to the effect following; (that is to say, ^{Surveyor, before entering upon office, to make the following declaration.}

" I *A.B.*, the surveyor of the town [or district] of [*here name the town or district*], under the [*here name the special Act*], do declare, that I will diligently, faithfully, and impartially perform the duties of my office, and to the utmost of my power, skill, and ability endeavour to cause the several provisions of the said Act, and of the Towns Improvement Clauses Act, 1847, to be strictly observed, and that without favour or affection, prejudice or malice, to any person whomsoever."

9. The commissioners shall appoint some person, by the title of "Inspector of Nuisances," to superintend and enforce the due execution of all duties to be performed by the scavengers appointed under this or the special Act, and to report to the commissioners any breach of the provisions of this or the special Act, or of any Act incorporated therewith, or of the byelaws, rules, and regulations of the commissioners, and the existence of any nuisances within the limits of the special Act; and the commissioners shall duly publish the name of any inspector of nuisances appointed by them, and shall require him to provide and keep a book in which shall be entered all reasonable complaints made by any householder of the district within the limits of the special Act of any breach of the provisions of this or the special Act, or of any Act incorporated therewith, or of the byelaws, rules, and regulations made by the commissioners for the preservation of due order and cleanliness or for the suppression of nuisances; and the inspector of nuisances shall forthwith inquire into the truth of such complaints, and report upon the same to the commissioners at their next meeting; and ^{Commissioners shall appoint an inspector of nuisances.}

such report, and the order of the commissioners thereon, shall be entered in the said book, which shall be kept at the office of the commissioners, and shall be open at all reasonable times to the inspection of any inhabitant of the said district or other person interested; and it shall be the duty of such inspector of nuisances, subject to the direction of the commissioners, to make complaints before justices, and take legal proceedings for the punishment of any person who has committed any offence under this or the special Act, or under any byelaws made by virtue thereof.

10. The commissioners may, if they think fit, appoint the same person to be both surveyor and inspector of nuisances.

11. The commissioners shall provide offices for the use of the said surveyor and inspector in some convenient place within the limits of the special Act, either in connexion with their own office or otherwise, as may be most convenient, and shall cause due notice thereof to be given twice at the least in some newspaper circulating within the said limits.

12. The commissioners may, if they think fit, appoint/subject to the prescribed approval, or, where no approval is prescribed, subject to the approval of one of her Majesty's Principal Secretaries of State, a person of competent skill and experience, who shall be styled "The Officer of Health," whose duty it shall be to ascertain the existence of diseases within the limits of the special Act, especially epidemics and contagious diseases, and to point out any nuisances or other local causes likely to cause and continue such diseases, or otherwise injure the health of the inhabitants, and to point out the best means for checking or preventing the spread of such diseases within the limits aforesaid, and also the best means for the ventilation of churches, chapels, schools, registered lodging houses, and other public buildings within the limits aforesaid, and from time to time, as required by the commissioners, to report to them upon the matters aforesaid, and to perform any other duties of a like nature which may be required of him; and the commissioners, with the same approval which is necessary for the appointment of the officer of health, shall fix the salary to be paid to such officer, and shall pay such salary out of the rates to be levied under this or the special Act; and the commissioners, with the like approval, may discontinue such office, or remove any such officer of health.

And with respect to plans of the district within the limits of the special Act, and of the works to be executed under the powers of this and the special Act, be it enacted as follows:

13. The commissioners shall, as soon as conveniently may be after the passing of the special Act, procure or cause to be made a survey and map of the district within the limits of the special Act, on a scale of not less than sixty inches to a mile, and shall cause to be marked thereon the course of all the existing sewers and drains belonging to them or under their care or management, and, as far as can be ascertained, the lines of pipes or

Same person
may be
surveyor and
inspector of
nuisances.

Offices for
surveyor and
inspector.

Appointment
of officer of
health.

*Surveys and
plans.*

Map of the
district within
the limits of
the special Act
to be made,
showing the
course of
sewers, drains,
&c.

conduits for the collection and distribution of water, the course of the pipes for the distribution of gas, and such other works, with such other particulars as may be necessary in order to show the underground works within the said district, and shall cause the said map to be from time to time corrected, and such additions to be made thereto as may show the sewers and drains for the time being belonging to the commissioners, and such other pipes and underground works as aforesaid; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when it was so corrected, shall be kept in the office of the commissioners, and shall be open at all seasonable hours to the inspection of the owners or occupiers of any lands within such district.

14. The principal officers of her Majesty's Ordnance may, if they think fit, on the application of the commissioners, and at their expence, furnish for the use of the said commissioners one or more copies of any map of such district, or any part thereof, which shall have been made under the direction of the said Ordnance Officers, or may cause a survey to be made of the said district on a scale of not less than sixty inches to the mile by surveying officers appointed by them, for such remuneration as shall previously be agreed upon between the said principal officers and the commissioners.

Ordnance officers may furnish commissioners with maps, or cause surveys to be made.

15. The Commissioners shall cause to be marked on the map so procured or caused to be made by them a series of marks and figures at convenient distances on the said map, denoting the height of the ground at every such mark above or below the level of a particular spot within the limits of the special Act, which may be easily found and identified, the position of which spot shall be described on the map, and shall also cause to be drawn, wherever practicable, lines of equal altitude at every four feet of elevation, or at such other intervals as may appear, upon due inquiry, to be the best adapted for the guidance of works of sewerage and drainage, for the collection and distribution of water, and for other purposes within such district for which a knowledge of the levels of the district may be necessary, and shall also cause proper bench marks for denoting the levels to be inscribed and marked at convenient distances and places, at the corners of streets, on posts, houses, or other prominent objects within such district.

Level lines to be marked on map, and bench marks to be made at convenient places in the district, for denoting the levels.

16. The commissioners may cause every such plan to be copied, engraved, or printed and coloured in such manner as appears to them most convenient, and may defray the costs of any surveys and maps made under their direction, and any costs incurred by them in regard to any such ordnance map, out of the rates authorized to be levied under this and the special Act.

Commissioners may cause maps to be engraved, &c.

17. The commissioners shall cause their surveyor to prepare plans of any new works, and additions to or alterations of existing works, that may be required for the effectual drainage

Plans to be prepared of new works or alterations

of existing works, and lines most advantageous for main sewers, &c. to be marked out.

of the houses and streets within such district, including provision for properly trapped drains or channels for the removal of all waste water and refuse from the houses and from the surface of the streets, and also to draw on such plans the lines that appear to him most advantageous for main sewers, and the best outfalls for clearing the whole district of surface moisture, and effecting the drainage of the subsoil, and to point out the most appropriate means and sites for the collection and sale of filth and refuse for agricultural or other purposes, and also to set forth any other matters which may assist the commissioners in carrying into execution, in an economical and effective manner, the several works required to be carried into execution under the provisions of this and the special Act, or which appear to be necessary for the health and convenience of the inhabitants of such district.

Before giving notice of intention to construct works for which notice is required, commissioners shall cause plans to be prepared, and deposited for inspection.

18. Before giving notice of their intention to construct any work of which by this or the special Act they are required to give notice, the commissioners shall cause plans of the intended work to be made, under the direction of their surveyor, on a scale not less for a horizontal plan than one inch to eighty-eight feet, and for a vertical section not less than one inch to two feet, and, in the case of a sewer, showing the depth of such sewer below the surface of the ground; and such plans shall be deposited in the office of the commissioners, or some other convenient place appointed for that purpose, and shall be open at all reasonable hours for the inspection of all persons interested therein, during the time for which such notice is required to be given.

Lands.

And with respect to taking lands, and the compensation to be made by the commissioners for damage done by them on execution of the powers of this and the special Act, be it enacted as follows:

Taking of lands for purposes of special Act to be subject to Lands Clauses Acts. 8 & 9 Vict. c. 18.

19. Where by this or the special Act the commissioners shall be empowered to take or use for the purposes thereof any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the powers so given, be subject to the provisions and restrictions contained in this Act and in the Lands Clauses Consolidation Act, 1845; and the commissioners shall make to the owners and occupiers of and all other parties interested in any such lands taken or used for the purposes of this or the special Act full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers vested in the commissioners by this or the special Act, or any Act incorporated therewith; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the said Lands Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all

the provisions of the last-mentioned Act shall be applicable to determine the amount of any such compensation, and to enforce the payment or other satisfaction thereof.

20. If any omission, mis-statement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, mentioned in any schedule to the special Act, the commissioners, after given ten days notice to the owners, lessees, and occupiers of the lands affected by such proposed correction, may apply to two justices for the correction thereof; and if it appear to such justices that such omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate, with the other documents to which it relates, shall be deposited with the clerk of the peace of the county in which the lands affected thereby are situated, and such certificate shall be kept by such clerk of the peace with the other documents to which it relates, and thereupon such schedule shall be deemed to be corrected according to such certificate; and the commissioners may take any lands in accordance with such certificate, as if such omission, mis-statement, or wrong description had not been made.

Correction of errors and omissions in schedule to special Act.

21. The commissioners shall make good all damage to any buildings or land by reason of altering the level of any street, or otherwise carrying into execution any of the powers of this or the special Act, or of any Act incorporated therewith, and shall pay to the owners, lessees, and occupiers of any such buildings or lands respectively such amount of compensation for such injury as shall be agreed upon between such owners, lessees, and occupiers, and the commissioners; and if such owners, lessees, and occupiers and the commissioners cannot agree as to the amount of such compensation, and the proportions thereof to be paid to such owners, lessees, and occupiers respectively, then the amount of such compensation, and also the proportions which the persons claiming the same are entitled to, shall be determined in the manner provided by the Lands Clauses Consolidation Act, 1845, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the last-mentioned Act shall be applicable to determine the amount of any such compensation, and to enforce payment or other satisfaction thereof.

Compensation for damage done to buildings, &c. in execution of powers.

8 & 9 Vict. c. 18.

And with respect to making and maintaining the public sewers, be it enacted as follows:

Sewers.

22. All public sewers and drains within the limits of the special Act, and all sewers and drains in and under the streets, with all the works and materials thereunto belonging, whether made at the time of the passing of the special Act, or at any time thereafter, and whether made at the cost of the

Management of public sewers and drains to be vested in the commissioner

commissioners or otherwise, and the entire management of the same, shall vest in and belong to the commissioners.

Drainage districts to be formed, subject to approval of inspector.

23. The commissioners shall from time to time, subject to the approval of the inspector, divide the whole town or district within the limits of the special Act, if and as occasion shall require, into separate drainage districts, having regard in such division to the nature of the ground, to the main lines of sewers by which such separate drainage districts are or shall be drained, and to the equal benefit, as far as may be, of all the lands and buildings to be comprised in any such drainage district, and shall cause their surveyor to define and describe the several drainage districts on a plan of the town or district within the limits of the special Act, to be made as aforesaid.

Power to commissioners to construct sewers and works in connexion therewith where none exist, making compensation to owners of property for damage done.

24. The commissioners shall from time to time, subject to the restrictions herein contained as to the notice to be given, and the plans and estimates to be prepared, cause to be made under the streets such main and other sewers as shall be necessary for the effectual draining of the town or district within the limits of the special Act, and also all such reservoirs, sluices, engines, and other works as shall be necessary for cleansing such sewers, and, if needful, they may carry such sewers through and across all underground cellars and vaults under any of the streets, doing as little damage as may be, and making full compensation for any damage done; and if for completing any of the aforesaid works it be found necessary to carry them into or through any inclosed or other lands, the commissioners may carry the same into or through such lands accordingly, making full compensation to the owners and occupiers thereof, and they may also cause such sewers to communicate with and empty themselves into the sea, or any public river, or they may cause the refuse from such sewers to be conveyed by a proper channel to the most convenient site for its collection and sale for agricultural or other purposes, as may be deemed most expedient, but so that the same shall in no case become a nuisance.

Commissioners may alter sewers and discontinue useless sewers.

25. The commissioners may from time to time, as they see fit, enlarge, alter, arch over, and otherwise improve all or any of the sewers vested in them, and if any of such sewers at any time appear to them to have become useless, the commissioners, if they think fit to do so, may demolish and discontinue such sewer, provided that it be so done as not to create a nuisance.

Commissioners not to destroy existing sewers, &c. without providing others.

26. If any person, by means of any enlargement, alteration, or discontinuance of any sewer, or other proceeding of the commissioners, be deprived of the use of any sewer or drain which such person was theretofore lawfully entitled to use, the commissioners shall provide some other sewer or drain equally effectual for such purpose; and if the commissioners refuse or do not within seven days next after notice in writing served upon them begin and thereupon diligently proceed to restore to its former effective state such drain or sewer, the use whereof

has been affected by the acts of the commissioners, or to provide such other sewer or drain as aforesaid, they shall forfeit to the person aggrieved any sum not exceeding forty shillings for every day after the expiration of such seven days during which he is deprived of the use of the drain or sewer to which he was so entitled, and is not provided with such other drain or sewer as aforesaid.

27. Before entering into any contract for executing any such work as aforesaid the commissioners shall procure from their surveyor an estimate of the probable expence of constructing the same in a substantial manner, and of the yearly expence of maintaining the same in repair, and each surveyor shall accompany such estimate with a report as to the most advantageous mode of constructing such work, whether under a contract for constructing the same merely, or a contract for constructing the same and maintaining it in repair during a given term of years; and the commissioners shall submit the plan and estimate of every such work, together with the report of their surveyor, to the inspector, who shall make in writing such observations or suggestions thereupon as may seem to him to be expedient; and if the commissioners do not regard or do not act in conformity with such observations or suggestions, they shall enter upon the minutes of their proceedings their reasons for not so doing.

Plans and estimates of expences of making and maintaining sewers, &c. to be prepared by the surveyor, and submitted to the inspector.

28. The expence of making any new sewer shall be defrayed as herein-after provided, by special sewer rates to be levied on the occupiers of all lands and buildings within the drainage district in which such sewer is situated: Provided always, that where, in the judgment of the commissioners, and by allowance of the inspector, any lands or buildings were sufficiently drained before the making of such new sewer, the occupiers thereof shall be entitled to have such deduction made from the special sewer rates to which they would otherwise be liable in respect of the making of such new sewer, and for such time, as the commissioners, with the approval of the inspector, shall deem to be just, having regard to the cost of making such new sewer, and to the value and efficiency of such old sewer; and whenever any old sewer is enlarged, or open sewer closed, the expence of such enlargement, or of closing such open sewer, shall be defrayed in like manner as if it had been incurred in making a new sewer.

Expence of making new sewers.

29. The expence of maintaining and cleaning all sewers vested in the commissioners, and all other expences connected with such sewers not herein-before provided for, or which may not be fully defrayed by the special sewer rates, shall be defrayed by general sewer rates to be levied as herein-after provided on the occupiers of all lands and buildings within the drainage district in which such sewers are severally situated.

Expence of maintaining sewers, &c.

30. Every person, not being employed for that purpose by the commissioners, who shall make any drain into any of the

Penalty for making unauthorized

drains into
sewers, &c.

sewers or drains so vested in the commissioners shall forfeit to the commissioners a sum not exceeding five pounds, and the commissioners may cause such branch drain to be re-made as they think fit, and all the expence incurred thereby shall be paid by the person making such branch drain, and shall be recoverable by the commissioners as damages.

Buildings not
to be erected
over sewers,
nor vaults or
cellars made
under streets,
without
consent of
commissioners.

31. No building shall be erected over any sewer belonging to the commissioners, and no vault, arch, or cellar shall be made under the carriageway of any street, without the consent of the commissioners first obtained in writing, and all such vaults, arches, and cellars shall be substantially made, and so as not to interfere or communicate with any sewers belonging to the commissioners; and if after the passing of the special Act any building be erected, or any vault, arch, or cellar be made, contrary to the provisions herein contained, the commissioners may demolish or fill up the same, and the expences incurred thereby shall be paid by the person erecting such building, or making such vault, arch, or cellar, and shall be recoverable as damages.

Streets may be
stopped for
construction,
&c. of sewers.

32. The commissioners may stop any street, and prevent all persons from passing along and using the same, for a reasonable time during the construction, alteration, repair, or demolition of any sewer or drain in or under such street.

All sewers, &c.
to be covered
with traps.

33. All sewers and drains within the limits of the special Act, whether public or private, shall be provided by the commissioners or other persons to whom they severally belong with proper traps or other coverings or means of ventilation so as to prevent stench.

Connexion of
drains from
land beyond
limits of town
or district
with sewers of
commissioners.

34. Any person, being the owner or occupier of any lands beyond the limits of the special Act, and in respect of which he would not be liable to the payment of the rates authorized to be levied under this and the special Act, may, with the consent of the commissioners first obtained in writing, upon payment to them of a reasonable sum of money to be agreed upon between them, at his own expence, and under the superintendence of the surveyor of the commissioners, cause to branch into and to communicate with any of the sewers belonging to the commissioners any sewer or drain in respect of the said property which may be lawfully made therefrom, of such size and in such manner and form of communication as the commissioners approve of: Provided always, that nothing in this or the special Act contained shall affect any right theretofore acquired by such owner or occupier to use any of the sewers or drains belonging to the commissioners under the provisions of this or the special Act.

House drains.

And with respect to the drainage of houses, be it enacted as follows:—

Commissioners
empowered to
construct
drains from
houses.

35. If any house or building within the limits of the special Act be at any time not drained by a sufficient drain or pipe communicating with some sewer, or with the sea or some public river, to the satisfaction of the commissioners, and if there shall

be such means of drainage within one hundred feet of any part of such house or building, the commissioners shall construct or lay from such house or building a covered drain or pipe, of such materials, of such size, at such level, and with such fall, as they think necessary for the drainage of such house or buildings, its areas, waterclosets, privies, and offices; provided that the cost of executing such work shall not, without the written consent of the owner, exceed one year's rackrent of such house or building; and the expences incurred by the commissioners in respect thereof, if not forthwith paid by the owner or occupier, shall be defrayed by the drainage rates herein-after mentioned.

36. No house or building within the limits of the special Act shall be built upon a lower level than will allow of the drainage of the wash and refuse of such house or building into some sewer belonging to the commissioners either then existing or marked out upon the map herein-before directed to be made by them, or into the sea, or some public river into which the commissioners are empowered to empty their sewers; and if there be such means of drainage existing within one hundred feet of such intended house or building, the commissioners shall cause a drain leading thereunto from the intended site of such house to be made, of such materials, of such size, at such level, and with such fall, as they think fit, or if there be no such means of drainage within one hundred feet of any part of the said intended site of such house or building, then such drain shall be made so as to lead into such covered cesspool or other place as the commissioners direct, not being under any dwelling house, and constructed to the satisfaction of the commissioners, so as effectually to prevent the escape of the contents thereof, until such sewer as aforesaid is made by the commissioners, when they shall make a drain to communicate with such new-made sewer, and shall demolish and fill up any such cesspool.

No house to be built without drains being constructed.

37. Whenever any house is rebuilt within the limits of the special Act, the level of the cellar or other lowest floor of such house shall be raised sufficiently to allow of the construction of such a drain as is herein-before provided in the case of houses to be built after the passing of the special Act; and whenever any house is taken down as low as the floor of the first story for the purpose of being built up again, such building shall be deemed a rebuilding within the meaning of this Act.

Where houses are rebuilt, the level shall be raised so as to allow a drain to be constructed.

38. Before beginning to build any new house, or to rebuild any existing house, within the limits of the special Act, the person intending to build or rebuild such house shall give to the commissioners notice thereof in writing, and shall accompany such notice with a plan showing the level at which the foundation of such house is proposed to be laid, by reference to some level ascertained under the direction of the commissioners.

Notice of intended buildings and rebuildings, with plans showing intended levels.

39. Within fourteen days after receiving such notice the commissioners may signify their disapproval of the level at

Commissioners may disapprove intended level

and fix the level.

which it is proposed to lay the foundation of any such house, and in case of such disapproval may within the said fourteen days fix the level at which the same is to be laid, subject to such right of appeal as is herein-after mentioned.

Houses built without notice, or on a different level from that fixed may be altered or demolished.

40. In default of sending such notice and plan, or if such building be begun or made at any level different from that fixed by the commissioners within the said fourteen days, or determined on appeal as after mentioned, or in any other respect contrary to the provisions of this or the special Act, the commissioners may, if necessary, cause such building to be altered or demolished, as the case requires, and the expence incurred by the commissioners in respect thereof shall be repaid to them by the person failing to comply with the provision aforesaid, and shall be recoverable as damages.

If commissioners fail to signify their approval, &c. of level, parties may proceed to build.

41. Provided always, that if the commissioners fail to signify in writing their approval or disapproval of the level shown on such plan as aforesaid within fourteen days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding anything herein-before contained, proceed to build or rebuild the house therein referred to according to the level shown on such plan, provided that such building or rebuilding be otherwise in accordance with the provisions of this and the special Act.

Commissioners may require owners of houses to provide privies and ashpits.

42. The commissioners shall require the owner of every house within the said limits, to which no sufficient privy and ashpit, with proper doors and coverings, is attached, to provide, where it appears to them that there is room enough for the purpose, such privy and ashpit, in such situation, not disturbing any building then already erected, as the commissioners deem necessary for the use of the inmates and occupiers thereof; and every such privy and ashpit shall be constructed to the satisfaction of the commissioners, so as effectually to prevent the escape of the contents thereof: Provided always that where a privy and ashpit is used in common by the inmates and occupiers of two or more of such houses, the commissioners may, if they think fit, dispense with the provision of a privy and ashpit for each such house.

On default of owner in providing privy, &c. commissioners may provide the same.

43. The owner of any such house shall provide the same with a privy, with such door and covering to the same, and with such ashpit as aforesaid, to the satisfaction of the commissioners, within one month next after notice in writing for that purpose given by the commissioners to him or to the occupier of such house, and in default thereof the commissioners shall cause such privy and ashpit to be provided, so nevertheless that the cost of executing such work shall not, without the written consent of the owner, exceed one year's rackrent of such house or building; and the expence incurred thereby shall be defrayed by the drainage rates herein-after mentioned.

44. All branch drains, as well within as without the lands or buildings to which they belong, and all privies, ashpits, and cesspools within the limits of the special Act, shall be under the survey and control of the commissioners, and shall be altered, repaired, and kept in proper order at the costs and charges of the owners of the lands and buildings to which the same belong, or for the use of which they are constructed or continued; and if the owner and occupier of any land or buildings to which any such drain, privy, ashpit, or cesspool belongs neglect, during fourteen days after notice in writing for that purpose, to alter, repair, and to put the same into good order, in the manner required by the commissioners, the commissioners may cause such drain, privy, ashpit, or cesspool to be altered, repaired, covered, and put in good order; and the expence incurred by the commissioners in respect thereof shall be repaid to them by the owners by whom the same ought to have been done, and shall be recoverable as damages.

Drains, privies, and cesspools to be under control of commissioners, and to be kept in order by owners.

45. The surveyor of the commissioners may inspect any drain, privy, ashpit, or cesspool within the limits of the special Act, and for that purpose, at all reasonable times in the daytime, after twenty-four hours' notice in writing to the occupier of the premises to which such drain, privy, ashpit, or cesspool is attached, may enter upon any lands and buildings, with such assistants and workmen as are necessary, and cause the ground to be opened where he thinks fit, doing as little damage as may be; and if such drain, privy, ashpit, or cesspool be found to be in proper order and condition, he shall cause the ground to be closed and made good as soon as may be; and the expences of opening, closing, and making good such drain, privy, ashpit, or cesspool shall in that case be defrayed by the commissioners.

Inspection of drains, privies, and cesspools.

46. If any such drain, privy, or cesspool be on inspection found to have been constructed, after the passing of the special Act, contrary to the directions and regulations of the commissioners, or contrary to the provisions of this or the special Act, or if any person, without the consent of the commissioners, construct, rebuild, or unstop any drain, privy, or cesspool which has been ordered by them to be demolished or stopped up or not to be made, every person so doing shall be liable to a penalty not exceeding five pounds; and the commissioners may cause such amendment or alteration to be made in any such drain, privy, or cesspool as they think fit; and the expence attending any such amendment or alteration shall be paid by the person by whom such sewer was improperly constructed, rebuilt, or altered, and shall be recoverable from him as damages.

Penalty on persons making or altering drains, &c. contrary to the orders of the commissioners.

And with respect to paving and maintaining the streets, be it enacted as follows:

Paving.

47. The management of all the streets which at the passing of the special Act are or which thereafter become public highways, and the pavements and other materials, as well in the

Management of streets vested in the commissioners.

footways as carriageways, of such streets, and all buildings, materials, implements, and other things provided for the purposes of the said highways, by the surveyors of highways or by the commissioners, shall belong to the commissioners.

Commissioners to be surveyors of highways.

48. The commissioners, and none other, shall be the surveyors of all highways within the limits of the special Act, and within those limits shall have all such powers and authorities, and be subject to all such liabilities, as any surveyors of highways are invested with or subject to by virtue of the laws for the time being in force; and the inhabitants of the district within the said limits shall not, in respect of any lands situate within the said district, be liable to the payment of any highway rate, grand jury cess, or other payment, in respect of making and repairing roads within the other parts of the parish, township, barony, or place in which the said district or any part thereof is situate.

Commissioners liable to indictment for neglect to repair highways.

49. The commissioners shall be deemed guilty of a misdemeanor for refusing or neglecting to repair any public highway within the limits of the special Act, and shall be liable to be indicted for such misdemeanor in the same manner as the inhabitants thereof, or of any parish, township, or other district therein, were liable before the passing of the special Act.

[*S. 50 rep. 57 & 58 Vict. c. 56. (S.L.R.)*] ✓

Commissioners may pave public streets, make footways, and repair streets and footways.

51. The commissioners may from time to time cause all or any of the streets under their management, or any part thereof respectively, to be paved, flagged, or otherwise made good, and the ground or soil thereof to be raised, lowered, or altered, in such manner and with such materials as they think fit; and they may also pave or make, with such materials as they think fit, any footways for the use of passengers in any such street, and cause such streets and footways to be repaired from time to time.

Commissioners may place fences to footways, &c.

52. The commissioners shall from time to time place such fences and posts on the side of the footways of the streets under their management as may be needed for the protection of passengers on such footways, and they may place posts in the carriageways of such streets, so as to make the crossing thereof less dangerous for foot passengers; and they shall from time to time repair any such fences or posts, or remove the same, or any obstruction to any such carriageway or footway, as they think fit.

Paving and repair of highways.

53. If any street, although a public highway at the passing of the special Act, have not theretofore been well and sufficiently paved and flagged or otherwise made good, the commissioners may cause such street, or the parts thereof not so paved and flagged or otherwise made good, to be paved and flagged or otherwise made good in such manner as they think fit, and the expences incurred by the commissioners in respect thereof shall be repaid to them by the occupiers of the lands abutting on such street, or such parts thereof as have not been theretofore well and

sufficiently paved and flagged or otherwise made good, and such expences shall be recoverable from such occupiers respectively as herein-after provided with respect to private improvement expences, and thereafter such street shall be repaired by the commissioners out of the rates levied under this or the special Act.

54. If any street, not being a public highway at the passing of the special Act, be then or thereafter paved, flagged, or otherwise made good, to the satisfaction of the commissioners, then, on the application of the greater part in value of the occupiers of the houses and lands in such street, the commissioners shall, by writing under their common seal, if they be incorporated, or if they be not incorporated, then under the hands of five of the commissioners, declare the same to be a public highway, and thereupon the said street shall become a public highway, and shall be thereafter repaired by the commissioners out of the rates levied under this and the special Act; and such declaration shall be entered among the proceedings of the commissioners, and notice of such declaration shall be put up in some conspicuous place in or near such street.

Future streets,
when paved,
&c. to satisfac-
tion of
commissioners,
may be
declared
highways.

55. If any street, not being a public highway at the passing of the special Act, be thereafter to the extent of two third parts thereof paved and flagged or otherwise made good to the satisfaction of the commissioners, then, on the application of the owners of the lands abutting on such parts of the said street as have been so made good, the commissioners may require the owners of the buildings or lands abutting on the remainder of the said street to pave and flag or otherwise make good to the satisfaction of the commissioners such remainder of the said street, or such parts thereof as front such last-mentioned buildings and lands, within a reasonable time to be fixed by the commissioners; and if such remainder of the said street, or any such part thereof as aforesaid, be not made good as aforesaid within the time so fixed, the commissioners may cause the part not so made good to be made good, and the expences which shall be incurred by the commissioners in respect thereof shall be repaid to them by the owners by whom such paving ought to have been done respectively; and such expences, if not forthwith repaid by such owners, shall be recoverable from the occupiers of such buildings and lands as hereinafter provided with respect to private improvement expences: and when the whole of the said street is paved and made good to the satisfaction of the commissioners, they shall, by writing under their common seal, if they be incorporated, or if they be not incorporated, then under the hands of five of the commissioners, declare the same to be a public highway, and thereupon the said street shall become a public highway, and shall for ever afterwards be repaired by the commissioners; and such declaration shall be entered among the proceedings of the commissioners.

Commissioners
upon com-
pletion of two
thirds of any
street, may
require the
remaining one
third to be
completed by
the owners of
adjoining
houses

Penalty on persons taking up or altering pavements, &c. without consent of commissioners.

56. Every person who wilfully displaces, takes up, or makes any alteration in the pavement, flags, or other materials of any street under the management of the commissioners, without their consent in writing, or without other lawful authority, shall be liable to a penalty not exceeding five pounds, and also a further sum not exceeding five shillings for every square foot of the pavement, flags, or other materials of the street, exceeding one square foot, so displaced, taken up, or altered.

New streets.

And with respect to laying out new streets, be it enacted as follows :

Notice of intention to lay out new streets to be given.

57. Every person who intends to make or lay out any new street shall give notice thereof to the commissioners, in order that the level of such street may be fixed by the commissioners.

Levels to be fixed by surveyor and to be kept by persons building.

58. The level of every new street shall be fixed under the direction of the surveyor of the commissioners, subject to such right of appeal as hereafter mentioned; and the level so fixed, if not altered on appeal, shall be kept thereafter by every person raising any house or other building in such street.

If commissioners fail to fix the level the party giving notice may proceed to lay out the street.

59. If the commissioners do not fix such level within six weeks from the time of the delivery of such notice as aforesaid, unless the fixing of such level be delayed by the appeal herein-after provided, the person giving such notice may proceed to lay out the street at any level which will allow of compliance with the other provisions of this and the special Act, as if such level had been fixed by the commissioners; and in such case every change of the level which the commissioners afterwards deem requisite, and the works consequent thereon, shall be made by the commissioners, and the expence thereof, and any damage which any person sustains in consequence of such alteration, shall be defrayed by them.

Persons laying out streets without notice, or not keeping level to be liable to expences of subsequent alterations of levels.

60. Every person who makes or lays out any such new street as aforesaid, without causing such notice to be given to the commissioners as aforesaid, shall be liable to defray all the expences consequent upon any change of the level of the said street deemed requisite by the commissioners; and every person who in building any house or other building in such street does not keep the level fixed by the commissioners shall be liable to defray all the expences consequent upon any change of the level of that part of the street on which such house or building abuts which the commissioners deem requisite.

Situation of gas and water pipes may be altered at expence of commissioners.

61. For the purposes of this or the special Act, if the commissioners deem it necessary to raise, sink, or otherwise alter the situation of any water pipe or gas pipe, or other waterworks or gasworks laid in any of the streets, they may from time to time, by notice in writing, require the person to whom any such pipes or works belong to cause forthwith, as soon as conveniently may be, any such pipes or works to be raised, sunk, or otherwise altered in position, in such manner as the commissioners direct;

provided that such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expences attending such raising, sinking, or altering, and full compensation for every damage done thereby, shall be paid by the commissioners, as well to the persons to whom such pipes or works belong as to all other persons.

62. If the person to whom any such pipes or works belong do not proceed forthwith, or as soon as conveniently may be after the receipt of such notice, to cause the same to be raised, sunk, or altered, in such manner as the commissioners require, the commissioners may themselves cause such pipes or works to be raised, sunk, or altered as they think fit; provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

If gas or water company fail to make the alterations, commissioners may make them.

63. It shall not be lawful to make or lay out any new street unless the same be of the prescribed width, or, where no width is prescribed, unless the same, being a carriage road, be at least thirty feet wide, or, not being a carriage road, be at least twenty feet wide.

As to the width of new streets.

And with respect to naming the streets and numbering the houses, be it enacted as follows:

Naming streets.

64. The commissioners shall from time to time cause the houses and buildings in all or any of the streets to be marked with numbers as they think fit, and shall cause to be put up or painted on a conspicuous part of some house, building, or place, at or near each end, corner, or entrance of every such street, the name by which such street is to be known; and every person who destroys, pulls down, or defaces any such number or name, or puts up any number or name different from the number or name put up by the commissioners, shall be liable to a penalty not exceeding forty shillings for every such offence.

Houses to be numbered and streets named.

65. The occupiers of houses and other buildings in the streets shall mark their houses with such numbers as the commissioners approve of, and shall renew such numbers as often as they become obliterated or defaced; and every such occupier who fails, within one week after notice for that purpose from the commissioners, to mark his house with a number approved of by the commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding forty shillings, and the commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and the expence thereof shall be repaid to them by such occupier, and shall be recoverable as damages.

Numbers of houses to be renewed by occupiers.

And with respect to improving the line of the streets, and removing obstructions, be it enacted as follows:

Improving streets.

66. The commissioners may allow, upon such terms as they think fit, any building within the limits of the special Act to be

Houses may be set forward for

improving line of street.

set forward, for improving the line of the street in which such building, or any building adjacent thereto, is situated.

Commissioners may purchase lands for widening streets, &c. and sell the parts not wanted.

67. The commissioners may agree with the owners of any lands within the limits of the special Act for the absolute purchase thereof, for the purpose of widening, enlarging, or otherwise improving any of the streets, and they shall resell any parts of the land so purchased which shall not be wanted for the enlargement of the street.

Houses projecting beyond line of street, when taken down, to be set back.

68. When any house or building, any part of which projects beyond the regular line of the street, or beyond the front of the house or building on either side thereof, has been taken down in order to be rebuilt or altered, the commissioners may require the same to be set backwards to or toward the line of the street, or the line of the adjoining houses or buildings, in such manner as the commissioners direct, for the improvement of such street: Provided always, that the commissioners shall make full compensation to the owner of any such house or building for any damage he thereby sustains.

Future projections of houses, &c. to be removed on notice.

69. The commissioners may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign post, sign iron, showboard, window shutter, wall, gate, or fence, or any other obstruction or projection erected or placed, after the passing of the special Act, against or in front of any house or building within the limits of the special Act, and which is an obstruction to the safe and convenient passage along any street; and such occupier shall, within fourteen days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the commissioners, and in default thereof shall be liable to a penalty not exceeding forty shillings; and the commissioners in such case may remove such obstruction or projection, and the expence of such removal shall be paid by the occupier so making default, and shall be recoverable as damages: Provided always, that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expence of removing the same from the rent payable by him to the owner of the house or building.

Commissioners may cause existing projections to be removed, on giving notice and making compensation.

70. If any such obstructions or projections were erected or placed against or in front of any house or building in any such street before the passing of the special Act, the commissioners may cause the same to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such obstruction or projection shall be thirty days before such alteration or removal is begun, and, if such obstructions or projections shall have been lawfully made, they

shall make reasonable compensation to every person who suffers damage by such removal or alteration.

71. All doors, gates, and bars put up after the passing of the special Act within the limits thereof, and which open upon any street, shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the commissioners allow such doors, gates, or bars to be otherwise hung or placed; and if, except as aforesaid, any such door, gate, or bar be hung or placed so as to open outwards on any street, the occupier of such house, building, yard, or land shall, within eight days after notice from the commissioners to that effect, cause the same to be altered so as not to open outwards; and in case he neglect so to do, the commissioners may make such alteration, and the expences of such alteration shall be paid to the commissioners by such occupier, and shall be recoverable from him as damages, and he shall, in addition, be liable to a penalty not exceeding forty shillings.

Doors, &c. in future not to be made to open outwards, except when so allowed in case of public buildings.

72. If any such door, gate, or bar was before the passing of the special Act hung so as to open outwards upon any street, the commissioners may alter the same, so that no part thereof when open shall project over any public way.

Existing doors, &c. opening outwards may be altered.

73. When any opening is made in any pavement or footpath within the limits of the special Act, as an entrance to any vault or cellar, a door or covering shall be made by the occupier of such vault or cellar, of iron, or such other materials, and in such manner, as the commissioners direct, and such door or covering shall from time to time be kept in good repair by the occupier of such vault or cellar; and if such occupier do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the directions of the commissioners, or if he do not keep the same when properly made in good repair, he shall for every such offence be liable to a penalty not exceeding five pounds.

Coverings for cellar doors to be made by occupiers.

74. The occupier of every house or building in, adjoining, or near to any street shall, within seven days next after service of an order of the commissioners for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath; and in default of compliance with any such order within the period aforesaid, such occupier shall be liable to a penalty not exceeding forty shillings for every day that he shall so make default.

Waterspouts to be affixed to houses or buildings.

Saved.

ss 69 70 ant. 8

app. 2. 18. 96. 5. 0

(N11) ss. 10-12 (1)

Ruinous or dangerous buildings.

Ruinous or dangerous buildings to be taken down or secured by owners, &c.

And with respect to ruinous or dangerous buildings, be it enacted as follows :

75. If any building or wall, or anything affixed thereon, within the limits of the special Act, be deemed by the surveyor of the commissioners to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring buildings, such surveyor shall immediately cause a proper board or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such building or wall, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, the said surveyor may make complaint thereof before two justices, and it shall be lawful for such justices to order the owner, or in his default the occupier (if any), of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same, or such part thereof as appears to them to be in a dangerous state, within the time to be fixed by such justices; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the commissioners shall with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured, in such manner as shall be requisite; and all the expences of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof.

Levy of expences by distress.

76. If such owner can be found within the limits of the special Act, and if, on demand of the expences aforesaid, he neglect or refuse to pay the same, then such expences may be levied by distress, and any justice may issue his warrant accordingly.

If owner cannot be found within the limits, or distress cannot be made, commissioners may take the house or ground.

77. If such owner cannot be found within the said limits, or sufficient distress of his goods and chattels within the said limits cannot be made, the commissioners, after giving twenty-eight days notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building or on the land whereon such building stood, may take such building or land, provided that such expences be not paid or

tendered to them within the said twenty-eight days, making compensation to the owner of such building or land in the manner provided by the Lands Clauses Consolidation Act, 1845, 8 & 9 Vict. c. 18. in the case of lands taken otherwise than with the consent of the owners and occupiers thereof, and the commissioners shall be entitled to deduct out of such compensation the amount of the expences aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this Act.

78. If any such house or building as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, the commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expences incurred in respect of such house or building; and the commissioners shall restore any overplus arising from such sale to the owner of such house or building, on demand; nevertheless, the commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expences as may remain due after the application of the proceeds of such sale as are herein-before given to them for compelling the payment of the whole of the said expences.

Commissioners may sell the materials for payment of expences, restoring to the owner the overplus arising from the sale.

And with respect to precautions during the construction and repair of the sewers, streets, and houses, be it enacted as follows:

Precautions during repairs.

79. The commissioners shall, during the construction or repair of any of the streets vested in them, and during the construction or repair of any sewers or drains, take proper precaution for guarding against accident, by shoreing-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the streets, to prevent the passage of carriages and horses while such works are carried on, as to them shall seem proper: and the commissioners shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night, so as to prevent accidents; and every person who takes down, alters, or removes any of the said bars or chains, or extinguishes any light, without the authority or consent of the commissioners, shall for every such offence be liable to a penalty not exceeding five pounds.

Houses to be protected, and bars to be erected across streets, during repairs.

80.^[1] Every person intending to build or take down any building within the limits of the special Act, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be so done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall before beginning the same

Hoards to be set up during repairs, with footways and lights.

Rep on adaption

Imp. Act 53-

[¹ Where Part III. of 53 & 54 Vict. c. 59. is adopted, this section is repealed, and the provisions of s. 34 of that Act are substituted.]

cause sufficient boards or fences to be put up, in order to separate the building where such works are being carried on from the street, with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers, outside of such hoard or fence, and shall continue such hoard or fence, with such platform and handrail as aforesaid, standing and in good condition, to the satisfaction of the commissioners, during such time as the public safety or convenience requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night; and every such person who fails to put up such fence or hoard, or platform with such handrail as aforesaid, or to continue the same respectively standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted in the night, or who does not remove the same, when directed by the commissioners, within a reasonable time afterwards, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

When building materials are deposited in streets, &c. the same shall be lighted at night, and fenced.

81. When any building materials, rubbish, or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the commissioners or not, the person causing such materials or other things to be so laid, or such hole to be made, shall at his own expence cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising, while such materials or hole remain; and such person shall, at his own expence, cause such materials or other things, and such hole, to be sufficiently fenced and inclosed, until such materials or other things are removed, or the hole filled up or otherwise made secure; and every such person who fails so to light, fence, or inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

Penalty for continuing deposits of building materials or excavations for an unreasonable time.

82. In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding five pounds to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and a further penalty not exceeding forty shillings for every day during which such offence is continued after the conviction for such offence; and in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Commissioners to cause dangerous

83. If any building or hole or any other place near any street be, for want of sufficient repair, protection, or inclosure,

dangerous to the passengers along such street, the commissioners shall cause the same to be repaired, protected, or inclosed, so as to prevent danger therefrom; and the expenses of such repair, protection, or inclosure shall be repaid to the commissioners by the owner of the premises so repaired, protected, or inclosed, and shall be recoverable from him as damages.

places to be
repaired or
inclosed.

And with respect to objections to the works to be constructed by or subject to the approval of the commissioners, be it enacted as follows:

*Objections to
works.*

84. Twenty-eight days at the least before fixing the level of any street which has not become a public highway, or any street which has not been theretofore levelled or paved, and before making any sewer where none was before, or altering the course or level of or abandoning or stopping any sewer, the commissioners shall give notice of their intention by posting a printed or written notice in a conspicuous place at each end of every such street through or in which such work is to be undertaken, which notice shall set forth the name or situation of the street intended to be levelled or paved, and the names of the places through or near which it is intended that the new sewer shall pass, or the existing sewer be altered or stopped up, and also the places of the beginning and the end thereof, and shall refer to plans of such intended work, and shall specify a place where such plans may be seen, and a time when and place where all persons interested in such intended work may be heard thereupon; and they shall at the same time give to the inspector notice of the said intended work, and of the time and place appointed for hearing objections thereto.

Commissioners
to give notice
before fixing
levels of streets,
or making,
altering, or
abandoning
sewers.

85. The commissioners shall meet at the time and place mentioned in the said notice, to consider, in the presence of the inspector, or of the surveyor of the commissioners, any objections made against such intended work, and all persons interested therein, or likely to be aggrieved thereby, shall be entitled to be heard before the commissioners at such meeting; and thereupon the commissioners may, with the concurrence of the inspector, if any inspector has been appointed and is present at such meeting, or in the absence of the inspector, or if no inspector have been appointed, then in their discretion, abandon or make such alterations in the said intended work as they judge fit; and no such work to which any objection is made at such meeting at which any such inspector shall be present shall be executed unless the inspector, or if no inspector have been appointed, then unless the surveyor of the commissioners, after the person making such objection or his agent has been heard, certify that the work in his judgment ought to be executed, nor shall such work be begun until the end of seven days after an order for the execution thereof has been duly made by the commissioners, and entered in their books.

Meeting of
commissioners
to hear ob-
jections to in-
tended works.

Commissioners
may abandon
or alter in-
tended works.

If any objection
is made works
shall not be
executed with-
out certificate
from inspector
or surveyor.

Persons
aggrieved
by order of
commissioners
may appeal
to quarter
sessions.

86. Any person liable to pay or to contribute towards the expence of any of the works aforesaid, or otherwise aggrieved by any order of the commissioners relating thereto, may, at any time within seven days next after the making of any such order, give notice in writing to the commissioners that he intends to appeal against such order to the court of quarter sessions holden next after the expiration of ten days next after such notice, and along with such notice he shall give a statement in writing of the grounds of the appeal; and if within four days next after giving such notice the party enter into a recognizance before some justice, with two sufficient sureties, conditioned to try the appeal, and abide the order of the court, and pay such costs as shall be awarded by the court thereupon, the work so appealed against shall not be begun until after the judgment of the court upon such appeal; and such court, upon due proof of such notice and of such recognizance having been given and entered into, shall hear and determine the matter of the appeal, and shall make such order thereon, either confirming, quashing, or varying the same, and shall award such costs to either of the parties, as the court in its discretion thinks fit: Provided always, that the appellant shall not be heard in support of such appeal unless such notice and statement shall have been given and such recognizance entered into as aforesaid, nor on the hearing of such appeal shall he go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

*Cleansing
streets.*

And with respect to cleansing the streets, be it enacted as follows:

*Cleansing of
streets.*

87. The commissioners shall cause all the streets, together with the foot pavements, from time to time to be properly swept and cleansed, and all dust and filth of every sort found thereon to be collected and removed, and shall cause all the dust, ashes, and rubbish to be carried away from the houses and tenements of the inhabitants of the town or district within the limits of the special Act, at convenient hours and times, and shall cause the privies and cesspools within the said town or district to be from time to time emptied and cleansed in a sufficient and proper manner: Provided always, that the occupier of any house or tenement within the limits of the special Act may keep and remove any such soil, ashes, or rubbish as shall be made on his own premises, and shall be kept for manure, so that the same be not a nuisance to the inhabitants residing near such premises, and that the same be removed at such times and in such manner as shall be approved of by the commissioners.

*Occupiers to
cause footways
to be swept
daily.*

88. The occupiers of buildings and lands within or adjoining the streets shall once in every day, (Sundays excepted,) before eight of the clock in the forenoon of each day, cause to be swept and cleansed the footways and pavements in front or at the side of their respective buildings and lands; and every such occupier making default herein shall for every such offence be

liable to a penalty not exceeding five shillings; and for the purpose aforesaid, when any house shall be let in separate apartments, the person letting such apartments shall be deemed the occupier.

89. The commissioners may compound, for such time as they think fit, with any person liable to sweep or clean any footway under the provisions of this or the special Act, for sweeping and cleaning the same in the manner directed by this or the special Act.

Commissioners may compound for sweeping footways.

90. The dust and filth which the commissioners shall cause to be collected from the streets, privies, sewers and cesspools, and all the dust, ashes, and rubbish which the commissioners shall cause to be collected and carried away from the houses or elsewhere within the said limits, shall be the property of the commissioners, and the commissioners shall have power to sell and dispose of the same as they think proper, and the money arising from the sale thereof shall be applied toward the purposes of the special Act.

Dust, &c. collected to be vested in the commissioners.

91. The commissioners may from time to time provide places convenient for the deposit of the night soil, dung, ashes, and other filth and rubbish to be collected under the authority of this or the special Act, and for stabling and keeping all horses, carts, implements, and other things required for the purposes of this or the special Act, or of any Act to be incorporated therewith; and for any of such purposes the commissioners may purchase or hire any lands or buildings by them considered necessary, or they may cause any new building to be made upon any land which shall be purchased or hired by them under the provisions of this or the special Act.

Commissioners may provide lands, &c. for deposit of soil and materials, and for stabling horses, &c.

92. The commissioners, if they think fit so to do, may cause any number of moveable or fixed dust boxes or other conveniences wherein dust and ashes may be deposited until removed and carried away to be provided and placed in such of the streets as they shall judge necessary, and may require the occupiers of houses or tenements within such streets to cause all their dust and ashes to be deposited daily in the said dust boxes or other conveniences; and every person who, after such dust boxes or conveniences have been so provided, shall deposit or cause or permit to be deposited any ashes or dust in any part of any street, except in some of the said dust boxes or other conveniences, and every person who shall lay or cause to be laid any dirt, dung, or other filth in any part of any street, shall for every such offence forfeit and pay a sum not exceeding ten shillings.

Dust boxes may be erected in streets by commissioners.

93. The commissioners may erect such public urinals within the limits of the special Act, and in such situations as they think fit, and may defray the expence thereof, and of keeping

Commissioners may cause public conveniences to be erected.

the same in good order, and may make compensation for any injury occasioned to any person by the erection thereof, out of the monies to be levied under this and the special Act.

94. The commissioners shall, as often as occasion requires, cause the streets to be watered, and they may contract with any water company or other party for a supply of water for that purpose, and for cleansing the sewers and drains; and, if necessary, they may place pipes, conduits, and pumps in any of the streets, or provide any other works and engines proper for that purpose, and remove and alter the same when and as they think proper.

Commissioners to cause streets to be watered, or contract for that purpose.

95. The commissioners shall appoint and employ a sufficient number of scavengers, or contract with any company or other person to employ scavengers, for sweeping, cleansing, and watering the streets, and for removing all dust, ashes, rubbish, and filth therefrom, and from the houses and tenements therein, and for emptying privies and cesspools, in the manner by this or the special Act directed; and such scavengers shall, on such days and at such hours and in such manner as the commissioners from time to time appoint, sufficiently execute all such works and duties as they have respectively contracted or been employed to perform; and every such contractor who fails to sweep and properly cleanse or water any street which he has contracted to sweep, cleanse, or water, or who fails to clean out and empty any privy, cesspool, or sewer which he has contracted to clean out and empty, at the time and in the manner appointed by the commissioners, or to collect or remove any dirt, ashes, or rubbish which he has contracted to remove, at the time and in the manner prescribed by the commissioners for that purpose, or who lays any of such soil, dust, ashes, rubbish, or filth in any other place than such as are appointed by the commissioners for that purpose, shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for obstructing scavengers.

96. Every occupier of any building or land within the said limits, and every other person, who refuses to permit the said scavengers to remove such dirt, ashes, or rubbish as by this or the special Act they are authorized to do, or who obstructs the said scavengers in the performance of their duty, shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on persons, other than those employed by commissioners, for removing dirt, &c.

97. Every person, other than the person employed by the commissioners, or by some person contracting with the commissioners for that purpose, who collects or carries away any night soil, dust, ashes, rubbish, or filth, by this or the special Act directed to be removed by persons employed by the commissioners, from any street or public place within the limits of the special Act, shall be liable to a penalty not exceeding forty shillings for every such offence.

98. The commissioners may from time to time fix the hours within which only it shall be lawful to empty privies or remove offensive matter within the limits of the special Act; and when the commissioners have fixed such hours, and given public notice thereof, every person who within the limits of the special Act empties or begins to empty any privy, or removes along any thoroughfare within the said limits any offensive matter, at any time except within the hours so fixed, and also every person who at any time, whether such hours have been fixed by the commissioners or not, uses for any such purpose any cart or carriage not having a covering proper for preventing the escape of the contents of such cart, or of the stench thereof, or who wilfully slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been placed, or unavoidably slopped or spilled, shall be liable to a penalty not exceeding forty shillings; and in default of the apprehension of the actual offender the driver or person having the care of the cart or carriage employed for any such purpose shall be deemed to be the offender.

Penalty for conveying offensive matter at improper times, or in an improper manner.

And with respect to the prevention of nuisances, be it enacted as follows:

Nuisances.

99. No person shall suffer any waste or stagnant water to remain in any cellar or other place within any house belonging to or occupied by him within the limits of the special Act, so as to be a nuisance; and every person who so suffers any such water to remain for forty-eight hours after receiving notice from the commissioners to remove the same, and every person who allows the contents of any privy or cesspool to overflow or soak therefrom, to the annoyance of the occupiers of any adjoining property, shall for every such offence be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding five shillings for every day during which such nuisance continues; and the commissioners may drain and cleanse out any stagnant pools, ditches, or ponds of water within the limits of the special Act, and abate any such nuisance as aforesaid, and for that purpose may enter, by their officers and workmen, into and upon any building or land within the said limits at all reasonable times, and do all necessary acts for any of the purposes aforesaid; and the expences incurred thereby shall be paid by the person committing such offence, or occupying the building or land whence such annoyance proceeds, and if there be no occupier, by the owner of such building or land, and shall be recoverable as damages.

Stagnant pools of water and other annoyances to be removed.

100. If the dung or soil of any stable, cowhouse, or pigstye, or other collection of refuse matter, elsewhere than in any farm-yard, be at any time allowed to accumulate within the limits of the special Act for more than thirty days, or for more than seven days after a quantity exceeding one ton has been collected in

Regulations to prevent accumulation of dung, &c.

any place not allowed by the commissioners, such dung, soil, or refuse, if not removed within forty-eight hours after notice from any officer of the commissioners for that purpose, shall become the property of the commissioners, and they, or any person with whom they have at that time any subsisting contract for the removal of refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the special Act.

On certificate of the officer of health, or two surgeons, &c. filth to be removed.

101. If at any time the officer of health, or, if for the time being there be no officer of health, any two surgeons or physicians, or one surgeon and one physician, residing within the limits of the special Act, certify under his or their hand to the commissioners that any accumulation of dung, soil, or filth, or other noxious or offensive matter, within the limits of the special Act, ought to be removed, as being injurious to the health of the inhabitants, the clerk to the commissioners shall forthwith give notice to the owner or reputed owner of such dung, soil, or filth, or to the occupier of the land where the same are, to remove the same within twenty-four hours after such notice; and in case of failure to comply with such notice, the said dung, soil, or filth shall thereupon become vested in the commissioners, and they, or any person with whom they have at that time contracted for the removal of all such refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the special Act.

Houses to be whitewashed and purified, and drains, &c. amended, on certificate of officer of health, &c.

102. If at any time the officer of health, or, if for the time being there be no officer of health, any two surgeons or physicians, or one surgeon and one physician, residing within the said limits, certify under his or their hands to the commissioners that any house or part of any house or building within the limits of the special Act is in such a filthy or unwholesome condition that the health of the inmates or of the neighbours is thereby affected or endangered, or that the whitewashing, cleansing, or purifying of any house or building or any part thereof would tend to prevent or check infectious or contagious disease therein, or that any drain, privy, or cesspool is in such a defective state that the health of the neighbours is thereby affected or endangered, the commissioners shall order the occupier of such house or part thereof to whitewash, cleanse, and purify the same, and the owner of such drain, privy, or cesspool to amend the condition thereof, in such manner and within such time as the commissioners deem reasonable; and if such occupier or owner do not comply with such order, he shall be liable to a penalty not exceeding ten shillings for every day's neglect thereof; and in such case the commissioners may cause such house or any part thereof to be whitewashed, cleansed, and purified, or the condition of such drain, privy, or cesspool to be amended, and may recover the expence thereof from such occupier or owner, in the same manner as damages.

103. No coffin containing a corpse shall be buried in any grave within the limits of the special Act, not being a vault or catacomb, without at least thirty inches of soil between the ordinary surface of such burial ground and the upper side of the coffin; and if the person having the preparation or the immediate charge of the preparation of the grave to receive such coffin permit the coffin to be buried in such grave, or if the person having the control of the burial ground knowingly permit any coffin to be buried in any grave, in which there is not left after the burial thereof thirty inches at the least of soil, measuring from the ordinary surface of such burial ground to the upper side of the coffin, the person having the immediate charge of the preparation of the grave, and the person having the control of the burial ground in which such burial is made, shall for every such offence be liable to a penalty not exceeding five pounds.

No interment in any grave without leaving two feet six inches clear of soil above the coffin.

104. If any candle-house, melting-house, melting-place, or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling or crushing bones, or any pig-stye, necessary house, dunghill, manure heap, or any manufactory, building, or place of business, within the limits of the special Act, be at any time certified to the commissioners by the inspector of nuisances or officer of health, or, if for the time being there be no inspector of nuisances or officer of health, by any two surgeons or physicians, or one surgeon and one physician, to be a nuisance or injurious to the health of the inhabitants, the commissioners shall direct complaint to be made before two justices; and any justice may summon before any two justices the person by or on whose behalf the work complained of is carried on, and such justices shall inquire into such complaint, and they may, by an order in writing under their hands, order such person to discontinue or remedy the nuisance within such time as to them shall appear expedient: Provided always, that if it appear to such justices that in carrying on any business complained of the best means then known to be available for mitigating the nuisance or the injurious effects of such business have not been adopted, they may suspend their final determination, upon condition that the person so complained against shall undertake to adopt within a reasonable time such means as the said justices shall judge to be practicable, and order to be carried into effect, for mitigating or preventing the injurious effects of such business.

Justices may order nuisances to be abated.

105. If any such nuisance, or the cause of any such injurious effects as aforesaid, be not discontinued or remedied within such time as shall be ordered by the said justices, the person by or on whose behalf the business causing such nuisance is carried on shall be liable to a penalty not exceeding five pounds for every day during which such nuisance shall be continued or unremedied after the expiration of such time as aforesaid: Provided always, that when any person who thinks himself aggrieved by

Penalty for disobedience to orders of justices.

any such order shall, according to the provisions of this or the special Act, appeal against any such order, such person shall not be liable to discontinue or remedy the nuisance or cause of the injurious effects mentioned therein, or to pay any penalty, until after the expiration of five days after the determination of such appeal and the confirmation of such order, unless such appeal cease to be prosecuted.

Commissioners may direct prosecutions for nuisances, and other proceedings, and may order the costs to be paid out of the rates.

106. The commissioners may direct any prosecution for any public nuisance whatsoever created, permitted, or suffered within the limits of the special Act, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this or the special Act, or of any Act incorporated therewith, and may order the expenses of such prosecution or other proceedings to be paid out of the rates authorized to be imposed under the provisions of this and the special Act.

Nothing herein contained to affect nuisances at common law.

107. Nothing in this Act contained shall be construed to render lawful any act or omission on the part of any person which is, or but for this Act would be, deemed to be a nuisance at common law, nor to exempt any person guilty of nuisance at common law from prosecution or action in respect thereof, according to the forms of proceeding at common law, nor from the consequences upon being convicted thereof.

Smoke.

And with respect to the prevention of smoke, be it enacted as follows:

Fireplaces of factories, &c. to consume their own smoke.

108. Every fireplace or furnace constructed after the passing of the special Act, in order to be used within the limits of such Act in the working of engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, gaswork, or in any manufactory whatsoever, (although a steam engine be not used or employed therein,) shall be so constructed as to consume the smoke arising from the combustibles used in such fireplace or furnace; and every such fireplace or furnace existing within the said limits at the date of the passing of the special Act, used for the purposes aforesaid, not so constructed as to consume the smoke arising from such fireplace or furnace, shall within the prescribed period, or if no period be prescribed, then within two years after the passing of the special Act, be so altered in its construction as to consume such smoke; and if after such period any person use for any of the purposes aforesaid any fireplace or furnace not so constructed as aforesaid, or if at any time any person use any such fireplace or furnace constructed after the passing of the special Act, and not so constructed as aforesaid, or so negligently use any such fireplace or furnace as not to consume the smoke arising from the combustibles used therein, every person so offending shall be liable to a penalty of forty shillings for every day during any part of which such furnace or fireplace shall be so used and continued after one month's notice in writing shall have been given to the owner or

occupier of such furnace or fireplace by the commissioners to remedy or discontinue the use of the same.

And with respect to the construction of houses for prevention of fire, be it enacted as follows :

Fire.

109. The party walls of all buildings erected after the passing of the special Act within the limits thereof shall be carried through and above the roof, to form a parapet of not less than twelve inches in height, measured at right angles with the slope of the roof, above the covering of the roof of the highest building to which such party walls belong; and all such party walls, and the external walls of all buildings erected after the passing of the special Act in or near any street, or within the curtilage of any house adjoining any street, shall be constructed of incombustible materials, and the coverings of the roofs thereof shall not, without the previous consent in writing of the commissioners, be constructed of combustible materials; and it shall not be lawful for the owner of any building within the limits of the special Act, having at the passing of the special Act a roof covered with thatch or other combustible material, and contiguous to or adjoining to any other building, to suffer such covering to such roof to remain for a longer period than seven years after the passing of the special Act, unless with the consent in writing of the commissioners; and every person who shall erect any building, or cover any roof, or suffer the covering of any roof to continue, contrary to the provision herein contained, and who shall not remove or alter the same within one month after notice given to him for that purpose by the commissioners, shall be liable to a penalty not exceeding one pound for every day that such building or covering to such roof shall so continue.

Party walls of new buildings to be carried up through the roof.

Such party walls, and external walls of buildings, and coverings of roofs, to be made of incombustible materials.

Roofs of existing buildings made of combustible materials to be altered within 7 years.

And with respect to supplying buildings with fresh air, be it enacted as follows :

Ventilation.

110. Before beginning to build any building intended to be used as a church, chapel, or school, or a place of public amusement or entertainment, or for holding large numbers of people for any purpose whatsoever, within the limits of the special Act, the person intending to build the same shall give fourteen days notice in writing to the commissioners, and shall accompany such notice with a plan and description of the manner proposed for its construction, with respect to the means of supplying fresh air to such building; and no person shall begin to build such building until the manner proposed for its construction, with respect to the means for supplying fresh air, have been approved of by the commissioners; and in default of sending such notice, or if any such building be erected without such approval, the commissioners may cause such building, or such part of it as they consider necessary, to be pulled down or altered, at the expence of the owner, and any expence incurred by the commissioners in so doing may be recovered as herein-before provided with respect

Approval by commissioners of plans of churches or buildings intended as places for public meetings.

to ruinous or dangerous buildings taken down or repaired by the commissioners.

If commis-
sioners fail to
signify their
approval of
plan within
fourteen days,
party may
proceed to
build.

111. Provided always, that if the commissioners fail to signify in writing their approval or disapproval of the manner of construction of such building, with respect to the means of supplying fresh air, shown on such plan and description as aforesaid, within fourteen days after receiving such notice, accompanied by such plan and description, the person giving such notice may, notwithstanding anything herein contained, proceed to build the building therein referred to in the manner shown on such plan and description; provided that such building be otherwise in accordance with the provisions of this and the special Act.

Appeal against
determination
of commis-
sioners.

112. Provided also, that if the person so intending to build be dissatisfied with the determination of the commissioners as to the said proposed manner of construction, he shall have the same right of appeal against the determination of the commissioners, and such appeal shall be followed by the same incidents, as herein-before provided in the case of appeals against any order of the commissioners with respect to works to be constructed by or subject to the approval of the commissioners.

Cellars in
courts not to
be occupied as
dwellings, after
notice given.

113. It shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied as a dwelling place, any cellar under any house in any court within the limits of the special Act, after the commissioners have given notice to the owners thereof that the letting of cellars as dwelling places in such court is prohibited from that time forth; and it shall be the duty of the commissioners to issue such notices from time to time, as soon as is convenient, until such notice has been given with respect to every court within the limits of the special Act.

Regulations as
to letting or
occupying as
dwellings
cellars not in
courts.

114. It shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied as a dwelling place, any cellar or room under any house within the said limits, although not situated in a court, which cellar or room shall be less in height from the floor to the ceiling than seven feet, or which shall be less than one third of its height above the level of the street or ground adjoining the same, or otherwise shall not have two feet at least of its height from the floor to the ceiling above the said level, with an open area of two feet wide from the level of the floor of such cellar or room up to the level of the said street or ground, or which shall not have appurtenant thereto the use of a watercloset or privy and ashpit, according to the enactment herein contained, or which shall not also have a glazed window made to open to the full extent of the half thereof, the area of which is not less than six feet clear of the frame, and a fireplace, with a chimney or flue, or which cellar, being an inner or back cellar let or occupied along with a front

cellar as part of the same letting or occupation, has not a ventilating flue, (unless such inner or back cellar shall be part of a house built before the passing of the special Act,) or which shall not be well and effectually drained by means of a drain the bottom of which is one foot at least below the level of the floor of such cellar or room.

115. Every person who lets separately (except as aforesaid) or who knowingly suffers to be occupied for hire, as a dwelling place, any cellar or room within the limits of the special Act, contrary to the provisions of this and the special Act, shall be liable to a penalty not exceeding twenty shillings, and a further penalty not exceeding five shillings for every day during which such cellar or room is so occupied after conviction of the first offence.

Penalty for letting cellars as dwelling places contrary to the provisions of this and the special Act.

And with respect to lodging houses, be it enacted as follows :

Lodging houses.

116. It shall not be lawful to keep or use as a public lodging house within the limits of the special Act any house, not being a licensed victualling house, which shall be rated to the relief of the poor on a less sum than ten pounds, nor in any case unless such house shall have been registered as a lodging house in a book to be kept by the commissioners for that purpose; and every house shall be deemed a public lodging house within the meaning of this Act in which persons are harboured or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any term less than a week.

Houses not to be used as public lodging houses unless they are of a certain value, and are registered.

117. The commissioners shall cause a register to be kept in which shall be entered the names of all such persons as apply to have the houses occupied by them registered as lodging houses, and the situations of such houses; and the commissioners shall from time to time fix the number of lodgers who may be received into each such lodging house, and make rules for promoting cleanliness and ventilation in such lodging house; and they shall order that a ticket containing the number of lodgers allowed to be received into the house, and a table of rules for promoting cleanliness and ventilation, shall be hung up or placed in a conspicuous part of each room into which lodgers are received; and the keepers of all such lodging houses shall at all times observe the said rules, and give access to such lodging houses, when required by any persons appointed by the commissioners, for the purpose of inspection thereof, or for the purpose of performing therein any disinfecting process which the commissioners may order.

Register and inspection of lodging houses.

118. Every person who shall keep any lodging house, and receive lodgers therein, without such lodging house having been duly registered, or who shall receive into the same more lodgers than shall be allowed by the commissioners, or who shall fail to keep such ticket or such table of rules as aforesaid hung up or displayed as required by the commissioners, or who shall neglect to cause such rules to be observed in any such lodging

Penalty on lodging house keepers not complying with the provisions of the Act.

house, or who shall refuse to admit to such lodging house at all reasonable times any person appointed by the commissioners for any of the purposes aforesaid, or who shall wilfully obstruct any such person in performing any disinfecting process therein which the commissioners may order, shall be liable to a penalty not exceeding forty shillings for each such offence.

Lighting.

And with respect to lighting the town or district, be it enacted as follows :

Commissioners may contract for lighting the streets.

119. The commissioners may contract for the prescribed period, or (where no period shall be prescribed) for any period not exceeding three years at any one time, with the owners of any gasworks, or with any other person, for the supply of such gas or oil or other means of lighting, and may provide such lamps, lamp posts, and other works, as the commissioners think necessary for lighting such streets.

Price to be paid for gas, in case of dispute, to be ascertained by arbitration under 8 & 9 Vict. c. 18.

120. If the commissioners, and the owners of any gasworks authorized by Act of Parliament to supply gas within the limits of the special Act, and with whom the commissioners may be desirous of contracting, shall not agree as to the price to be paid for such supply, then such price shall be settled by arbitration ; and for that purpose the clauses of the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this and the special Act.

Water.

And with respect to the supply of water, be it enacted as follows :

Commissioners shall maintain public cisterns, pumps, &c. or substitute others, and may construct new cisterns, &c. and supply baths and wash-houses.

121. The commissioners shall cause all existing public cisterns, pumps, wells, conduits, and other waterworks, used for the gratuitous supply of water to the inhabitants within the limits of the special Act, to be continued, maintained, and supplied with water, or they shall substitute other such works equally convenient, and shall cause them to be maintained and supplied with water, and such public cisterns and other works shall be vested in the commissioners, and be under their management and control ; and the commissioners may construct any number of new cisterns, pumps, conduits, and other waterworks, for the gratuitous use of any persons who choose to carry the same away, not for sale, but for their own private use, and may supply with water any public baths or wash-houses ; provided that the commissioners shall not construct any such new works without the prescribed approval, or, if no approval be prescribed, without the approval of the Commissioners of her Majesty's Woods and Forests, Land Revenues, Works, and Buildings ; and before giving their approval to the construction of any such new works the last-mentioned commissioners shall cause a local inquiry to be made in the manner prescribed by [1] an Act of the last session of Parliament, intituled " An Act for making " preliminary inquiries in certain cases of application for local " Acts," and shall withhold their [2] inquiry if upon such

Commissioners not to construct such new works without approval.

9 & 10 Vict. c. 106.

[1 See now 14 & 15 Vict. c. 49.]

[2 Sic.]

inquiry they shall be satisfied that an equally good and abundant supply of water for such public purposes can be procured as cheaply by any other means than by the construction of such new works.

122. The commissioners may contract for the prescribed period, or (where no period shall be prescribed) for any period not exceeding three years at one time, with the owners of any waterworks, or any other person, for such supply of water as the commissioners shall think necessary for the purposes of this or the special Act.

Commissioners may contract for supply of water.

123. If the commissioners, and the owners of any waterworks authorized by Act of Parliament to supply water within the limits of the special Act, with whom the commissioners may be desirous of contracting, do not agree as to the price to be paid for such supply, then such price (except where by the Act authorizing such waterworks some other mode of determining such price shall be provided) shall be settled by arbitration; and for that purpose the clauses of the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this and the special Act.

Price to be paid for water, in case of dispute, to be ascertained by arbitration under 8 & 9 Vict. c. 18.

124. The commissioners shall cause fireplugs, and all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire, to be provided and maintained, and for this purpose they may enter into any agreement with any water company or other party, and they shall paint or mark on the buildings and walls within the streets words or marks near to such fireplugs to denote the situation thereof, and do such other things for the purposes aforesaid as they may from time to time deem expedient.

Commissioners to cause fire-plugs, &c. to be provided and maintained.

And with respect to slaughter-houses, be it enacted as follows :

Slaughter-houses.

125. The commissioners may license such slaughter-houses and knackers' yards as they from time to time think proper for slaughtering cattle within the limits of the special Act.

Commissioners may license slaughter-houses, &c.

126. No place shall be used or occupied as a slaughter-house or knacker's yard within the said limits which was not in such use and occupation at the time of the passing of the special Act, and has so continued ever since, unless and until a licence for the erection thereof, or for the use and occupation thereof as a slaughter-house or knacker's yard, have been obtained from the commissioners; and every person who, without having first obtained such licence as aforesaid, uses as a slaughter-house or knacker's yard any place within the said limits not used as such at the passing of the special Act, and so continued to be used ever since, shall for each offence be liable to a penalty not exceeding five pounds, and a like penalty for every day after the conviction for such offence upon which the said offence is continued.

New slaughter-houses not to be erected without a licence.

Existing slaughter-houses, &c. to be registered.

127. Every place within the limits of the special Act which shall be used as a ~~slaughter-house~~ or knacker's yard shall, within three months after the passing of such Act, be registered by the owner or occupier thereof, at the office of the commissioners, and on application to the commissioners for that purpose the commissioners shall cause every such ~~slaughter-house~~ or knacker's yard to be registered in a book to be kept by them for that purpose; and every person who after the expiration of the said three months, and after one week's notice of this provision from the commissioners, uses or suffers to be used any such place as a ~~slaughter-house~~ or knacker's yard, without its being so registered, shall be liable to a penalty not exceeding five pounds for such offence, and a penalty not exceeding ten shillings for every day after the first day during which such place shall be used as a ~~slaughter-house~~ or knacker's yard without having been so registered.

Commissioners may make byelaws for regulation of slaughter-houses, &c.

128. The commissioners shall from time to time, by byelaws, to be made and confirmed in the manner herein-after provided, make regulations for the licensing, registering, and inspection of the said ~~slaughter-houses~~ and knackers' yards, and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and requiring them to be provided with a sufficient supply of water, and they may impose pecuniary penalties on persons breaking such byelaws; provided that no such penalty exceed for any one offence the sum of five pounds, and in the case of a continuing nuisance the sum of ten shillings for every day during which such nuisance shall be continued after the conviction for the first offence.

Justice may suspend or revoke licences of slaughter-houses, &c. or forbid use of registered slaughter-houses, &c.

129. The justices before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this or the special Act, or of the non-observance of any of the byelaws or regulations made by virtue of this or the special Act, in addition to the penalty imposed on such person under the authority of this or the special Act, may suspend for any period not exceeding two months the licence granted to such person under this or the special Act, or, in case such person be the owner or proprietor of any registered slaughter-house or knacker's yard, may forbid for any period not exceeding two months the slaughtering of cattle therein; and such justices, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed under the authority of this or the special Act, declare the licence granted under this or the special Act revoked, or, if such person be the owner or proprietor of any registered slaughter-house, may forbid absolutely the slaughtering of cattle therein; and whenever the licence of any such person is revoked as aforesaid, or whenever the slaughtering of cattle in any registered slaughter-house or knacker's yard is absolutely forbidden as aforesaid, the commissioners may refuse to grant any licence

whatever to the person whose licence has been so revoked, or on account of whose default the slaughtering of cattle in any registered slaughter-house has been forbidden.

130. Every person who during the period for which any such licence is suspended, or after the same is revoked as aforesaid, slaughters cattle in the ~~slaughter-house or knacker's yard to which such licence relates, or otherwise uses such slaughter-house or knacker's yard, or allows the same to be used as a slaughter-house or knacker's yard,~~ and every person who during the period that the slaughtering of cattle in any such registered ~~slaughter-house or knacker's yard~~ is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters any cattle in any such registered ^{(2. NA. 116 20) Y 22} ~~slaughter-house~~, shall be liable to a penalty not exceeding five pounds for such offence, and a further penalty of five pounds for every day on which any such offence is committed after the conviction for the first offence.

Penalty for slaughtering cattle during suspension of licence, &c.

131. The inspector of nuisances, the officer of health, or any other officer appointed by the commissioners for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any building or place whatsoever within the said limits kept or used for the sale of butchers' meat, or for slaughtering cattle, and examine whether any cattle, or the carcase of any such cattle, is deposited there, and in case such officer shall find any cattle, or the carcase or part of the carcase of any beast, which appears unfit for the food of man, he may seize and carry the same before a justice, and such justice shall forthwith order the same to be further inspected and examined by competent persons; and in case upon such inspection and examination such cattle, carcase, or part of a carcase, be found to be unfit for the food of man, such justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man; and such justice may adjudge the person to whom such cattle, carcase, or part of a carcase, belongs, or in whose custody the same is found, to pay a penalty not exceeding ten pounds for every such animal, or carcase, or part of a carcase, so found; and the owner or occupier of any building or place kept or used for the sale of butchers' meat, or for slaughtering cattle, and every other person, who obstructs or hinders such inspector or other officer from entering into and inspecting the same, and examining, seizing, or carrying away any such animal, or carcase, or part of a carcase, so appearing to be unfit for the food of man, shall be liable to a penalty not exceeding five pounds for each offence.

Officers may enter and inspect slaughter-houses, &c. and seize and destroy carcases, &c. unfit for food.

Saved.

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And with respect to things to be done by the commissioners by special order only, be it enacted as follows: *Special order.*

132. Where by this or the special Act the commissioners are empowered to do anything by special order only, it shall not be *Where things can be done*

by the commissioners by special order only, the resolution must be agreed to at a special meeting.

lawful for them to do such things unless the resolution to do the same have been agreed to by the commissioners in some meeting whereof special notice has been given, and has been confirmed in a subsequent meeting held not sooner than four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings in some newspaper circulating within the limits of the special Act, and of which special notice in writing has been given to each of the commissioners.

Final resolution not to be carried into effect for one month.

Remonstrance by majority of the ratepayers.

133. Provided always, that after any resolution has been confirmed in a subsequent meeting as aforesaid, the commissioners shall not proceed to carry the same into effect until after the expiration of one month from the date of such second meeting, and during such month such resolution shall be advertised once at least in each week in some newspaper circulating within the limits of the special Act, and public notice thereof shall also be given by means of placards posted in public places within the said limits, and reference shall in such advertisement and notice be made to some place, provided by the commissioners, where the plan or particulars of the work or matter to which such resolution relates may be gratuitously seen by the ratepayers; and if before the expiration of such month a remonstrance in writing against carrying into effect such resolution or any part thereof, signed by a majority of the ratepayers having votes in the election of the commissioners (such majority being computed with reference to the number of votes to which in such election each ratepayer is entitled under the special Act, or any Act incorporated therewith,) be presented to the commissioners, such resolution, or such part thereof as such remonstrance applies to, shall not be carried into effect; and where any such remonstrance applies to part only of any such resolution, the commissioners may either carry into effect the remainder of such resolution, or rescind the same, as they think fit.

Provision of slaughter-houses.

134. The commissioners may from time to time, with the concurrence in writing of the inspector, and by special order as herein defined, but not otherwise, purchase, rent, build, or otherwise provide such slaughter-houses and knackers' yards as they think proper for slaughtering cattle within the limits of the special Act.

Provision of pleasure grounds and places for public recreation.

135. The commissioners may by a special order, as herein defined, but not otherwise, purchase, rent, or otherwise provide lands, grounds, or other places, either within the limits of the special Act, or at a reasonable distance therefrom, not exceeding three miles from the centre of the principal market place, if any, or from the principal office of the commissioners, and in a situation to be approved of by the inspector, to be used as a pleasure ground or place of public resort or recreation; and the commissioners may from time to time level, drain, plant, and otherwise lay out and improve any such public lands or grounds for the more convenient use and enjoyment thereof.

136. The commissioners may from time to time by special order as herein defined, but not otherwise, purchase, rent, or otherwise provide, either within the limits of the special Act, or at a reasonable distance therefrom, suitable and convenient land and buildings, in a situation and according to plans to be approved of by the inspector, to be used for public baths and wash-houses, and public open bathing places and public drying grounds, for the use and accommodation of the inhabitants within the limits of the special Act, in washing and drying clothes and other articles, and may fit up the same respectively with all requisite and proper conveniences, and from time to time enlarge, renew, and repair the same respectively, and afford the use thereof respectively to such inhabitants, at such reasonable charges, and under and subject to such regulations, as the commissioners may deem expedient; and every person who offends against any such regulations shall be liable to a penalty not exceeding forty shillings for every such offence.

Provision of public baths and wash-houses, &c.

137. Provided always, that the number of baths for the use of the working classes in any building provided by the commissioners shall not be less than twice the number of the other baths of any higher class.

Proportion of baths for the working classes.

138. The commissioners may from time to time make such reasonable charges for the use of such baths, bathing places, wash-houses, and drying grounds, as they think fit, but, as regards the working classes, not exceeding the charges, if any, mentioned in the special Act, unless for the use of any washing tub or trough for more than two hours in any one day, in which case any charge may be made which the commissioners deem reasonable.

Charges for the use of baths, &c.

139. For the recovery of the charges at such wash-houses and drying grounds the officers, servants, and others having the management thereof may, at the period of using the same, or at any subsequent time, detain the clothes or other goods and chattels in or upon any such wash-house or drying ground of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made; and in case such payment be not made within seven days, the commissioners may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge, and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person.

Recovery of charges for the use of wash-houses, &c.

140. A printed copy or sufficient abstract of the byelaws made by the commissioners relating to the use of such baths, bathing places, and wash-houses, so far as regards every such bath, bathing place, or wash-house, shall be put up in such bath room, bathing place, and wash-house.

Publication of byelaws in regard to baths, &c.

141. Whenever any of such public baths, bathing places, wash-houses, or drying grounds are deemed by the commis-

Baths, &c. may be discontinued,

and lands, &c.
may be sold.

sioners to be unnecessary or too expensive to be kept up, the commissioners may, by special order as herein defined, but not otherwise, discontinue the same, and sell the lands, buildings, and materials for the best price that can reasonably be obtained, and convey the same accordingly; and the purchase money shall be paid to the treasurer of the commissioners, and be disposed of as the commissioners direct.

If works
cannot be
carried out,
application
may be made
to Parliament
for additional
powers.

142.[¹] If it appear that any works which the commissioners deem necessary for promoting the health or convenience of the inhabitants of the district within the limit of the special Act cannot lawfully be carried into effect by the commissioners, under the powers vested in them by this or the special Act, by reason either that the monies authorized to be raised by them are insufficient for the purpose, or that any lands are required which the commissioners are not by this or the special Act authorized to take or use, or for any other reason, the commissioners may, by special order as herein defined, but not otherwise, cause application to be made to Parliament for an Act to enable them to execute such works, and may defray the expenses of such application out of the rates authorized to be levied by them under this and the special Act.

Clocks.

Power to
commissioners
to provide
public clocks.

143. And with respect to clocks, be it enacted that the commissioners may from time to time provide such clocks as they consider necessary, and cause them to be fixed upon or against any public building, or, with the consent of the owner and occupier, upon or against any private building the situation of which may be convenient for that purpose, and may cause the dials thereof to be lighted at night, and from time to time alter and remove any such clocks to such other like situation as they shall consider expedient.

*Execution of
works by
commissioners.*

And with respect to entry by the commissioners or their officers in execution of this or the special Act, be it enacted as follows:

Commissioners
empowered to
enter upon
lands, &c. for
inspection or
execution of
works.

144. The commissioners shall, for the purposes of this or the special Act, have power, by themselves or their officers, to enter at all reasonable hours in the daytime into and upon any buildings or lands within the limits of the special Act, as well for the purpose of inspection as for the purpose of executing any work authorized to be executed by them under this or the special Act, or any Act incorporated therewith, without being liable to any legal proceedings on account thereof: Provided always, that, except when herein or in the special Act it is otherwise provided, the commissioners or their officers shall not make any such entry, unless with the consent of the occupier, until after the expiration of twenty-four hours notice for that purpose given to the occupier.

Notice to be
given.

[¹ S. 142 is rep., 35 & 36 Vict. c. 91. s. 9., 51 & 52 Vict. c. 53. s. 11, so far as the same is inconsistent with the provisions of those Acts.]

145. Every person who shall at any time obstruct the commissioners or any person employed by them in the performance of anything which they are respectively empowered or required to do by this or the special Act, or any Act to be incorporated therewith, shall be liable to a penalty not exceeding five pounds.

Penalty on persons obstructing commissioners.

And with respect to ensuring the execution of the works by this or the special Act required to be done by the owners or occupiers of houses or lands, be it enacted as follows:

Execution of works by owners or occupiers.

146. Where under this or the special Act any notice is required to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such building or land, or left with some inmate of his abode, or, if there be no occupier, may be put up on some conspicuous part of such building or land; and it shall not be necessary in any such notice to name the occupier or the owner of such building or land: Provided always, that when the owner of any such building or land, and his residence, are known to the commissioners, it shall be the duty of the commissioners, if such owner be residing within the limits of the special Act, to cause every notice required to be given to the owner to be served on such owner, or left with some inmate of his abode; and if such owner be not resident within the limits of the special Act, they shall send every such notice by the post, addressed to the residence of such owner.

As to service of notice on owners and occupiers of buildings and lands.

147. Whenever, under the provisions of this or the special Act, or any Act incorporated therewith, any work of any kind is required to be executed by the owner or occupier of any house or lands, and default is made in the execution of such work, the commissioners may cause such work to be executed, and the expence incurred by the commissioners in respect thereof shall, except in the case in which such expences are herein-before directed to be defrayed by drainage rates, be repaid to them by the person by whom such work ought to have been executed.

Commissioners, in default of owner or occupier, may execute works, and recover expences.

148. Whenever default is made by the owner of any buildings or lands in the execution of any work by this or the special Act, or any Act incorporated therewith, required to be executed by him, the occupier of such buildings or lands may, with the approval of the commissioners, cause such work to be executed, and the expence thereof shall be repaid to such occupier by the owner of the buildings or lands, and such occupier may deduct the amount of such expence out of the rent from time to time becoming due from him to such owner.

Occupier, in default of owner, may execute works, for which owner is liable, and deduct expences from rent.

149. If the owner of any buildings or lands made liable by this or the special Act for the repayment to the commissioners of any expences incurred by them do not, as soon as the same become due and payable from him, repay all such expences to

Recovery of expences to which owners are liable.

the commissioners, the commissioners may recover the same from such owner in the same manner as damages, or in an action of debt in any of the superior courts, or in any other court having jurisdiction.

Power to demand such expences from occupier, and levy them by distress.

150. The commissioners may, by way of additional remedy, whether any such action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expences payable by the owner for the time being from the person who then or at any time thereafter occupies any such buildings or lands under such owner; and in default of payment thereof by such occupier, on demand, the same may be levied by distress and sale of the goods and chattels of such occupier, in the same manner as any rate may be recovered from him under this or the special Act; and every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expences.

Occupier may deduct sums paid or levied from his rent.

Occupier not to be liable for more than the amount of rent due, unless he refuse to disclose the amount of his rent, &c.

151. Provided always, that no occupier of any buildings or lands shall be liable to pay more money in respect of any expences charged by this or the special Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expences are payable at the time of the demand made upon him, or which at any time after such demand, and notice not to pay the same to his landlord, have accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall lie upon such occupier: Provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expences of any such works as aforesaid.

Burden of proof.

Saving.

Commissioners may allow time for repayment by owners of improvement expences, when amounting to a certain sum.

152. Where any such expences payable to the commissioners by any owner of any such building or lands amount to more than half the amount of the net annual value of such building or lands, the commissioners may, if they think fit, at the request of any such owner, allow time for the repayment of such expences, and receive the same by such instalments as they, under the circumstances of the case, consider reasonable, but so that the same be repaid by annual instalments of not less than one seventh part of the whole sum originally due, with interest for the principal money from time to time remaining unpaid after the yearly rate of five pounds in the hundred during the period of forbearance; but all such sums remaining due, notwithstanding the commissioners have agreed to allow any time for the repayment thereof as aforesaid, shall from time to time,

at the expiration of the several times so allowed for repayment thereof, be recoverable in like manner as such respective amounts would have been recoverable if no such time had been allowed for repayment thereof.

153. If the occupier of any buildings or lands within the limits of the special Act prevent the owner thereof from carrying into effect in respect of such buildings or lands any of the provisions of this or the special Act, or of any Act incorporated therewith, after notice of his intention so to do has been given by the owner to such occupier, any justice, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such buildings or lands as may be necessary for carrying into effect the provisions of this and the special Act, or of any Act incorporated therewith; and if, after the expiration of ten days from the date of such order such occupier continue to refuse to permit such owner to execute such works, such occupier shall for every day during which he so continues to refuse be liable to a penalty not exceeding five pounds; and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

If occupier prevent owner from executing works, a justice may order him to allow such works to be executed.

154. Nothing herein or in the special Act contained shall extend to avoid any agreement in writing entered into before the passing of the special Act for erecting or altering any building, but the same shall be performed with such alterations as may be rendered necessary by this or the special Act, and as if such alterations had been stipulated for in such agreement; and the difference between the cost of the work according to the agreement and the cost of such work as executed according to the provisions of this and the special Act shall be ascertained by the parties to the respective agreements, and paid for, or deducted, as the case may require; and if the said parties do not agree upon the amount of such difference, the same shall, on the request of either party (notice being given to the other), be decided by the surveyor to the commissioners, and for his trouble in making such decision each of the said parties shall pay to the said surveyor such sum not exceeding one pound, and to be disposed of for such purposes of the special Act as the commissioners shall direct.

Contracts for building entered into before passing of special Act to be completed with alterations rendered necessary by such Act.
Difference of cost occasioned by such alterations.

155. Nothing herein or in the special Act contained shall affect any lease or agreement for a lease whereby any person may be bound to erect buildings upon any building ground within the limits of the special Act, but the buildings mentioned in such lease or agreement shall be built according to the conditions which may be rendered necessary by this or the special Act, in the same manner as if this and the special Act had been passed and in operation at the time of making such lease or agreement,

Buildings to be erected under any lease or agreement to be built as required by this or the special Act, without compensation.

and the same had been made subject thereto, and that without either party being entitled to any compensation.

Rates.

And with respect to the rates directed by this Act to be made for sewers, drains, and private improvements, be it enacted as follows :

Where expences recoverable as private improvement expences, occupiers to be charged with a rate of 6*l.* 10*s.* per cent. for 30 years.

156. Where by this or the special Act the occupiers of any lands or buildings are made liable to the payment of any expences which are directed to be recoverable as private improvement expences, the commissioners may charge the occupiers of such lands and buildings respectively with special rates, over and above any other rates to which such persons may be liable under this and the special Act, after the yearly rate of six pounds ten shillings in the hundred pounds on the cost of such private improvements respectively, such special rates to be payable during thirty years next after such expences have been incurred.

Where new sewers are made, commissioners may make special sewer rate.

157. Whenever any new sewer shall be made, the commissioners may charge the occupiers of all lands and buildings liable to contribute to the rates for making the same with special sewer rates, over and above any other rates to which such persons may be liable under this or the special Act, after the yearly rate of six pounds ten shillings in the hundred pounds on the cost of making such new sewer, such special sewer rates to be payable during thirty years next after such expences have been incurred.

Commissioners to make a general sewer rate distinct from other rates.

Application of such rate.

158. Except where it shall be otherwise provided by the special Act, the commissioners shall make a sewer rate, to be called the general sewer rate, distinct from any other rate which they may be authorized to make under the special Act, and the money to be raised by such general sewer rates shall be applied in maintaining and clearing the sewers, and all other expences connected with such sewers not herein-before provided for, or which may not be fully defrayed by the special sewer rates, and for securing and paying off any monies which may be borrowed for the purpose aforesaid on security of the special sewer rates under the provisions of this or the special Act, or of any Act incorporated therewith, and the interest of such monies which the special sewer rates shall be insufficient to defray.

Commissioners may borrow money by mortgage of sewer rates and private improvement rates.

10 & 11 Vict. c. 16.

159. The commissioners may borrow money, by mortgage of the special and general sewer rates, for making new sewers, or inclosing open sewers, and also for any private improvement expences, by mortgage of the rates respective applicable to defray such expences, and for that purpose the clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in order to discharge the principal money borrowed as aforesaid on security of any such rates, the commissioners shall in every year pay off not less than one thirtieth part of any principal sum so borrowed.

General sewer rate to be of such amount

160. The commissioners shall from time to time, unless it be otherwise provided by the special Act, make the general sewer

rate of such amount as will with the special sewer rates raise money sufficient, not only to defray the current expences of maintaining the sewers that shall have been purchased or made, but also to keep down the interest of any monies borrowed on security of the special and general sewer rate, and to pay off the principal of such monies within a period not longer than thirty years.

161. Where by this or the special Act the commissioners are authorized to order that any rate shall be levied by assessments to be made for separate and distinct districts, the commissioners from time to time may order assessments to be made in respect of the rates authorized to be so levied upon separate and distinct districts, and in such case the commissioners shall cause their surveyor to describe and define in the plan of the town or district within the limits of the special Act every such separate and distinct district for the purposes of separate rating as aforesaid, and so from time to time as occasion shall require.

Assessments for rates on separate and distinct districts.

162. The commissioners may in such case, instead of making one assessment for the whole town or district within the limits of the special Act, make separate and distinct assessments, as occasion shall require, for every such separate and distinct district respectively, and may appoint, if they see fit, surveyors, collectors, and other officers for every such district, and they shall cause separate and distinct accounts to be kept of all monies collected and received under any rate in each distinct district, and of all payments and disbursements in respect thereof, and they shall, unless otherwise provided by the special Act, apply the monies to be collected and received from each distinct district under any such rate as aforesaid for the several purposes to which the same may be lawfully applied under the authority of this and the special Act, but so nevertheless that each district shall, as near as may be, bear its own expences; and in case any such expences shall apply to or be incurred in respect of two or more districts, the same shall be apportioned and divided between such districts in a fair and equitable manner.

Separate assessments on each district, &c.

Apportionment of expences.

163. In all cases when the commissioners have paid or become liable to the payment of any expences in constructing or laying any drain or pipe from any house or building, or in providing any privy, ashpit, or cesspool for the use of the occupiers thereof, and when neither the owner nor occupier of such house or building is willing to defray the said expences forthwith, the commissioners shall lay drainage rates on the occupiers of such houses and buildings respectively, to be continued for six successive years and no longer; and the sum to be annually levied by every such drainage rate shall be one fifth part of the whole expence incurred in constructing, laying, or providing such drain, privy, ashpit, or cesspool as aforesaid, and shall be applied in satisfaction thereof; and the amount of any such drainage rate may be added to any other rate levied from the occupiers of

Where expences of drains or privies, &c. are not paid by owners or occupiers, drainage rates may be levied on occupiers.

such houses and buildings, and recovered therewith by the like ways and means.

Occupiers paying drainage rates may deduct a proportion thereof from their rents.

164. Every occupier of any such house or building at a rent not less than the rackrent who has paid any such drainage rate shall be entitled to deduct three-fourths of the rate so paid by him from the rent payable by him to his landlord: Every occupier at a rent less than the rackrent who has paid any such drainage rate shall be entitled to deduct from the rent payable by him to his landlord such proportion of three-fourths of the rate so paid by him as the rent payable by him bears to the rackrent.

Landlords, being also tenants and receiving rents subject to deductions, may deduct same proportion from their rents.

165. Every landlord from whom any part of his rent has been deducted on account of such drainage rate, and who is himself liable to the payment of rent, shall be entitled to deduct from the rent payable by him such proportion of the sum so deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord receiving rent, and also liable to pay rent on account of such house or building; provided that no landlord, being also a tenant, shall be entitled under this provision to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Limitation of expenditure by commissioners for house drains, &c.

166. Without the written consent of the owner of any such house or building, the commissioners shall not be empowered to expend during any term of six successive years more in the whole than one year's rackrent thereof in constructing or laying any such pipe or drain, or in providing any such privy, cesspool, or ashpit.

Rates.

And with respect to the manner of making rates authorized by this or the special Act, be it enacted as follows:

Rates to be levied on persons occupying houses, &c. according to the full annual value of such houses, &c.

167. Every rate which the commissioners are by this or the special Act authorized to make or levy shall be made and levied by them at yearly, half-yearly, or such other periods as they think fit, upon every person who occupies any of the prescribed kinds of property, or (if no property be prescribed) any house, shop, warehouse, counting-house, coach-houses, stable, cellar, vault, building, workshop, manufactory, garden, land, or tenement whatsoever, (except as herein-after is excepted,) within the limits of the special Act, or of the district where such rate is assessed on the occupiers of lands and buildings of a separate district, as herein-before provided, according to the full net annual value thereof respectively; and the said rates shall be vested in the commissioners, and shall be payable at such times as they appoint: Provided always, that every person occupying lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens or nursery grounds, shall be rated in respect of the same in the prescribed proportion only, if no proportion be prescribed, in the proportion of one third part only of such net annual value thereof as aforesaid.

Occupiers of land only, or woodlands, &c. to be rated on the prescribed proportion, or on one third only of annual value.

168. Provided also, that no person shall be rated to any rate made in pursuance of this or the special Act in respect of tithes, or of any church, chapel, meeting house, or other building exclusively used for public worship, or any building exclusively used for the purposes of gratuitous education of the poor or of public charity, or any building or land belonging to the commissioners.

Exemptions
from rates.

169. The commissioners may make any such rate as aforesaid prospectively, in order to raise money to pay charges and expenses to be incurred thereafter, or retrospectively, in order to raise money to pay charges and expenses already incurred.

Rates may
be made pro-
spectively or
retrospectively.

170. The commissioners from time to time, before proceeding to make any rate which by this or the special Act, or any Act incorporated therewith, they are authorized to levy, shall cause an estimate to be prepared of the money required for the several purposes in respect of which they are authorized to levy such rate, showing the several sums required, the rateable value of the property assessable, and the rate on each pound of such value necessary to raise the money required, which estimate, after the same has been approved of by the commissioners, shall be forthwith entered on the rate book to be kept by the commissioners as hereinafter provided.

Estimates to
be prepared
before making
a rate.

171. Notice of the intention of making every rate authorized to be made under the provisions of this or the special Act, or any Act incorporated therewith, and of the time at which the same is intended to be made, and of a place where a statement of the proposed rate is deposited for inspection by the ratepayers, shall be given by the commissioners by placards posted up in public places, and shall be advertised in some newspaper circulating within the limits of the special Act, in the week immediately previous to such rate being made, or as nearly so as may be.

Notice of
intention to
make a rate.

172. Every such rate shall be fairly transcribed in a book to be kept for that purpose, and may be in the form given in the schedule (A.) annexed to this Act, or as near thereto as the circumstances of the case will admit of; and every such rate shall contain an account of every particular set forth at the head of the respective columns, so far as the same can be ascertained; and every such rate shall be signed by not less than six of the commissioners.

Rate book.

173. The statement of the proposed rate, and the rate immediately after the same is made, shall be open to the inspection of any person interested or rated in such rate at all reasonable times, and any such person may take copies or extracts from such statement or rate without paying anything for the same; and any person having the custody of such statement or rate who refuses or does not permit any person so interested or rated as aforesaid to take copies or extracts from such statement or rate shall for every such offence be liable to a penalty not exceeding five pounds.

Rate to be
open to in-
spection of
ratepayers.

Rates may be amended.

174. The commissioners may from time to time amend any rate made by virtue of this or the special Act, by inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting therein the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if it appear to them that such person has been under-rated or over-rated, or by making such other amendments therein as will make such rate conformable to this and the special Act, and no such amendment shall be held to avoid the rate: Provided always, that every person aggrieved by any such alteration shall have the same right of appeal therefrom as he would have had if his name had been originally inserted in such rate, and no such alteration had been made; and as respects such person the rates shall be considered to have been made at the time when he received notice of such alteration; and every person whose rates are altered shall be entitled to seven days notice of such alteration before the rate shall be payable by him.

Appeal against alterations.

Value of property to be ascertained according to last poor rate assessment.

175. The annual value of all property rateable under this or the special Act shall be ascertained according to the next preceding assessment for the relief of the poor within the limits of the special Act, except in such cases as are herein-after mentioned.

If poor rate is considered an unfair criterion, commissioners may cause a valuation to be made

176. Provided always, that if at any time the rate for the relief of the poor within the limits of the special Act be in the judgment of the commissioners an unfair criterion by which the said rates should be made, they may cause a valuation to be made of all the rateable property within the limits of the special Act, or of any such separate district as aforesaid, by some competent person appointed by them for that purpose, and the rates made by the commissioners for the purposes of this Act shall be made upon such valuation; and in every such valuation the property rateable shall be computed at its net annual value, as defined by an Act made in the seventh year of his late Majesty, intituled "An Act to regulate parochial assessments," or any other Act for the time being in force for regulating parochial assessment.

6 & 7 Will. 4. c. 96.

Valuer to make declaration before acting.

177. Before any such valuation shall be made the person appointed to make it shall make and subscribe a solemn declaration to make such valuation fairly and impartially according to the best of his judgment, and an entry or minute shall be made in the book of proceedings of the commissioners of the making and subscribing of such declaration, and of the date thereof, and any justice to whom application is made for that purpose shall administer such declaration.

Poor rate to be open to inspection by commissioners.

178. The commissioners, or any person by them authorized, may from time to time inspect any of the rates for the relief of the poor in any parish, township, or other district within the

limits of the special Act, and the books in which are contained all the assessments by which the same are made, and may take copies thereof or extracts therefrom respectively; and any person having the custody of such rates or assessments who does not suffer the commissioners, or any person authorized by them, to inspect the same at reasonable times, or to take copies thereof or extracts therefrom, shall be liable to a penalty not exceeding five pounds for every such offence.

179. When any property in respect of which the occupier would be liable to be rated to any sewer rate made under the provisions of this or the special Act is unoccupied at the time of making such rate, the commissioners shall rate and assess the owner of such unoccupied premises to such rate, and every such owner shall pay the amount of such rate: Provided always, that nothing herein contained shall affect the right herein reserved to recover any arrears of such rates from any future occupier of such premises.

Owner of property unoccupied to be assessed to the sewer rate.

180. When any property in respect of which any person is liable to be assessed as occupier to any rate under the provisions of this or the special Act, or any Act incorporated therewith, other than the sewer rate, is unoccupied at the time of making any such rate, the commissioners shall in every such case include such property in the said rate, describing it in the column appropriated to the name of the occupier as being "empty"; and if any person afterwards occupy such property during any part of the period for which such rate was made, the commissioners shall insert in such rate the name of such occupier, and collect from such occupier, or from the owner, if he be liable to pay the same, a portion of the said rate proportioned to the time during which such person occupies such property, and every such person shall thereupon be deemed to all intents and purposes to be properly rated; and all such rates may be collected and recovered from the person liable to pay the same under the provisions of this or the special Act in the same manner as other rates made payable thereunder: Provided always, that any person whose name is so inserted in such rate, and such owner as last aforesaid, may appeal against such rate to the justices at special sessions, or to the next quarter sessions holden after such insertion of his name as aforesaid admitting of such appeal, in the same manner as he might have appealed if named in the rate: Provided also, that, except as aforesaid, no rate other than the sewer rate shall be payable by any person in respect of unoccupied premises.

Rating of unoccupied premises.

181. The owners of all rateable property of which the full net annual value does not exceed the prescribed sum, or (where no sum is prescribed) the sum of ten pounds, or which are let to weekly or monthly tenants, or in separate apartments, shall be rated to and pay the rates by this or the special Act directed to be made, instead of the occupiers thereof.

Owners of small tenements to pay rates instead of occupier.

Not necessary to name the owner where unknown.

182. Whenever the name of any owner liable to be rated under the provisions of this or the special Act is not known to the commissioners, or to the person making the rates, it shall be sufficient to rate such owner in the rate book of the commissioners as the owner of the property to be rated by the designation of "the owner," without stating his name.

Provision as to tenants under existing leases.

183. Provided always, that when any owner is rated in respect of any rateable property in the occupation of any tenant under any lease or agreement made prior to the passing of the special Act, such tenant shall repay to the owner all sums paid by him during the continuance of such lease on account of any rates under this or the special Act payable by the occupier, unless it have been agreed that the owner shall pay all rates in respect of such property; and every sum so payable by the tenant to the owner may be recovered, if not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

Occupiers, being tenants from year to year, may demand to be rated.

184. Provided also, that the occupiers of any rateable property, being tenants thereof from year to year, may demand to be assessed for the same, and to pay the rates in respect thereof made under the authority of this or the special Act, and the commissioners shall assess every such occupier so long as he duly pays the said rates.

Appeal.

And with respect to the appeal to be made against any rate, be it enacted as follows :

Appeal on the ground of incorrectness, &c. of valuation.

185. If any person think himself aggrieved by any rate, on the ground of inequality, unfairness, or incorrectness in the valuation of any rateable property included therein, or in the amount assessed thereon, he may, at any time within one month after such rate is made, appeal to the justices at any special sessions holden for the division within which the rateable property is situated for the purpose of considering appeals against the poor rates, or in Ireland may appeal to the justices of the petty sessions of the district, or to the justices acting for the district, within which the rateable property is situated; but no such appeal shall be entertained by such justices unless seven days notice in writing of such appeal be given by the aggrieved party to the commissioners; and at the sessions for which such notice is given, or any adjournment thereof, the justices there present shall hear and determine all objections to any such rate on the ground of inequality, unfairness, or incorrectness in the valuation of any property included therein, or in the amount assessed thereon, of which notice has been so given, but no other objection; and their decision shall be final, unless the party impugning such decision, within fourteen days after the same is made, give notice in writing to the other party of his intention to appeal against such decision, stating in such notice the nature and grounds of such appeal, and within five days after giving such notice enter into a recognizance before some justice of the peace,

Decision of justices to be final, unless appealed from to quarter sessions.

with sufficient sureties, conditioned to try such appeal at the then next quarter sessions at which the same can be tried, and to abide the order of and pay such costs as shall be awarded by the court at such sessions, or any adjournment thereof.

186. If any person think himself aggrieved by any rate made under the authority of this or the special Act, or by any matters included in or omitted from the same, he may, at any time within one month after the same is made, give notice of his intention to appeal to the next quarter sessions holden not less than fourteen days after such notice; but no such appeal shall be entertained at such quarter sessions unless fourteen days notice in writing of such appeal, stating the nature and grounds thereof, be given by the aggrieved party to the commissioners: Provided always, that no such notice of appeal shall prevent the issuing of the warrant of distress for recovery of any such rate, as herein-after provided, or the execution thereof.

Persons aggrieved by rate may appeal to quarter sessions.

187. The court shall hear and determine the appeal in a summary way at the quarter sessions for which any such notice of appeal is given, or at the following sessions, when the court thinks fit to adjourn the appeal to the following sessions, and the decision of the court shall be final and conclusive on all parties.

Decision of quarter sessions to be final.

188. No order of the said justices shall be of any force pending any appeal touching the same subject matter to the court of quarter sessions having jurisdiction to try such appeal, or in opposition to the order of any such court on such appeal.

Order suspended pending appeal.

189. The said justices and the court of quarter sessions respectively shall in any such appeal as aforesaid have the same powers of amending or quashing the rate in respect of which the appeal is made as are by law vested in courts of quarter sessions for amending or quashing the rates for the relief of the poor within their jurisdiction upon appeals against such rates, and shall likewise have respectively, in any appeal against any rate made under the authority of this or the special Act, the same powers of awarding costs to be paid by or to any of the parties to the appeal, and of recovering such costs, as are now vested in them respectively for awarding and recovering costs in an appeal against any rate for the relief of the poor within their jurisdiction: Provided always, that if the said justices or court shall quash the rate in respect of which the appeal is made, then, notwithstanding the quashing of such rate, all sums of money charged by such rate on any person charged by such rate may, if the justices or court so order, be levied by such means and in the same manner as if no appeal had been made against such rate; and the money which any person charged on such rate pays, or which is recovered from him, shall be taken as a payment on account of the next effective rate made on him for the same purposes for which the rate so quashed was made.

On appeal, the quarter sessions and petty sessions to have same power of amending and quashing rates, as in appeals against poor rates.

Order of justices not to be removed by certiorari.

190. No order of the said justices or court of quarter sessions upon any such appeal as aforesaid shall be removed by certiorari or otherwise into any of her Majesty's courts of record at Westminster.

Recovery of rates.

And with respect to the recovery of rates, be it enacted as follows :

Jurisdiction of justices to compel payment of rates by persons in default.

191. If any person rated under the authority of this or the special Act fail to pay any of the said rates due from him for the space of fourteen days after demand thereof in writing by the commissioners or their collector, any justice, on the application of the commissioners or their collector, may summon such person to appear before him at a time to be mentioned in the summons, to show cause why the rates due from him should not be paid; and in case no sufficient cause for the nonpayment of such rate be shown, the same shall be levied by distress, and such justice shall issue his warrant accordingly, or the commissioners may recover the same by action of debt; provided that if no sufficient distress whereon to levy the amount due in respect of such rates can be found within the jurisdiction of the said justice, then, upon oath thereof made before any justice of any other county or jurisdiction in which any goods or chattels of the person not paying the said rates may be found, such justice shall certify the said oath by endorsing the said warrant, and thereupon the amount due in respect of the said rates, and unpaid by the said person, may be levied by distress of the goods and chattels of such person as assessed in the last-mentioned county or jurisdiction.

Warrant of distress.

192. The warrant of distress for the recovery of any rate made payable by this or the special Act may be in the form or to the effect mentioned in schedule (B.) to this Act annexed; and in all cases where a distress is hereby authorized to be made, every constable authorized by the warrant to levy any sum mentioned therein shall, upon being required by a collector of the rates, aid in making a distress or sale pursuant to such warrant; and every constable who refuses to do so shall be liable to a penalty not exceeding five pounds.

Rate books to be evidence.

193. In any proceeding to levy and recover or consequent on the levying or recovering of any rate under the provisions of this or the special Act, the books of rates of the commissioner, and all entries made therein in manner by this or the special Act directed, by the production thereof alone, and without any evidence that the notices and other requirements of this or the special Act have been given or complied with, or proof of the seal of the commissioners, if they are incorporated, or if not, then on proof of the signatures of the commissioners whose names appear thereon or subscribed therein, shall be received as evidence of such rate and of the contents thereof.

Remedy against persons quitting

194. If any person quit or be about to quit any rateable property before he has paid the rates then payable by him in respect

thereof, and do not pay the same to the commissioners or their collector, on demand, any justice having jurisdiction where such person resides or his goods are found may summon such person to appear before him at a time mentioned in the summons, to show cause why the rates should not be paid, and if no sufficient cause for the nonpayment of such rates be shown accordingly, the same shall be levied by distress, and such justice shall issue his warrant accordingly.

rateable property before payment of rates.

195. When any rate has been made for a particular period, and the owner or occupier who is rated to such rate ceases to be the owner or occupier of the property in respect whereof he is rated before the end of such period, such owner or occupier shall be liable to pay a portion only of the rate payable for the whole of such period, proportionate to the time during which he continued to be owner or occupier; and in every such case, if any person, after the making of such rate, become the owner or occupier of any property so rated as aforesaid during part of the period for which such rate was made, such person shall pay a portion of such rate, proportioned to the time during which he held or occupied the property so rated, and the same shall be recovered from him in the same manner as if he had been originally rated for such property.

Rates to be apportioned on owner or occupier ceasing to be such, or becoming such, during currency of rate.

196. When the owner of any rateable property is rated in respect thereof under the authority of this or the special Act, and the rate remains unpaid for three months, the commissioners or their collector may demand the amount of such rate from the occupier for the time being of such rateable property, and on nonpayment thereof may recover the same by distress and sale of his goods and chattels, in like manner as rates may be recovered from the occupier of any property liable to be rated; and every such occupier shall be entitled to deduct from the rent payable by him to such owner so much as was so paid by or recovered from him.

Rates due from owner may be recovered from occupier; and deducted by him from rent.

197. Provided always, that no such occupier shall be required to pay, nor shall his goods and chattels be distrained for, any further sum than the amount of rent due from him at the time of the demand made upon him for such amount of rate, or which after such demand, and after notice not to pay the same to his landlord, at any time accrues and becomes payable by him, unless he refuse, on application being made to him for that purpose by or on behalf of the commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie upon such occupier.

Occupier not to be required to pay more than the amount of rent owing by him.

198. If, on the request of the commissioners, or of the collector of the said rates, the occupier of any property refuses or wilfully omits to disclose, or wilfully mis-states to the

Penalty on occupier refusing to give name of owner, &c.

commissioners or collector making such request, the name of the owner of such property, or of the person receiving or authorized to receive the rents of the same, any justice of the peace, on oath made before him of such request, and of such refusal or wilful omission or mis-statement, may summon the person who has so refused or wilfully omitted or mis-stated as aforesaid to appear, at a time and place to be mentioned in such summons, before such justice, or before some other justice; and if the person so summoned neglect or refuse to attend at the time and place mentioned in the summons, or if he attend and do not show good cause to the justice then present for such his refusal or wilful omission or mis-statement, such justice, upon proof, in case of the neglect or refusal to attend as aforesaid, of the due service of the said summons, or on such attendance, may impose a penalty upon such person who has so refused, or wilfully made such omission or mis-statement, not exceeding the sum of five pounds.

Recovery by
surveyors of
highways, and
application, of
arrears of
highway rates.

199. The several persons who at the time of the passing of the special Act are surveyors of highways for any township or other district within the limits of the special Act may proceed for the recovery of any highway rate made in such township or district, and then remaining unpaid, in the same manner as they might have done if this and the special Act had not been passed, and they shall apply the money which they so recover, in the first place, in reimbursing themselves any expences which they have incurred as such surveyors as aforesaid, and in discharge of any debts legally owing from them in respect of the highways within such township or district; and the surplus, if any, arising from any buildings or lands within the limits of the special Act, or a proportionate part thereof, shall be paid by them to the treasurer to the commissioners, and shall be applied to the same purposes as the rates by this or the special Act authorized to be levied are directed to be applied.

Byelaws.
—

And with respect to the byelaws to be made by virtue of this or the special Act, be it enacted as follows :

200. The commissioners may from time to time make such byelaws as they think fit for the several purposes for which they are herein-before or by the special Act empowered to make byelaws, and from time to time repeal, alter, or amend any such byelaws, provided such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or the provisions of this or the special Act, and be reduced into writing, and have affixed thereto the common seal of the commissioners, if they be a body corporate, or the signatures of two of the commissioners, if they be not a body corporate, and, if affecting other persons than the officers or servants of the company, be confirmed and published as herein provided.

Byelaws may
be enforced
by penalties.

201. The commissioners, by the byelaws so to be made by them, may impose such reasonable penalties as they think fit, not exceeding forty shillings for each breach of such byelaws :

Provided always, that such byelaws be so framed as to allow the justices before whom any penalty imposed thereby is sought to be recovered to order the whole or part only of such penalty to be paid, or to remit the whole penalty.

202. No byelaw made by the commissioners under the authority of this or the special Act, except such as relate solely to the commissioners or their officers or servants, shall come into operation until the same be confirmed in the prescribed manner, and if no manner of confirmation be prescribed, then not until it be allowed by some judge of one of the superior courts or by the justices in quarter sessions; and it shall be incumbent on such justices, on the request of the commissioners, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow of the same, as they think meet.

Byelaws affecting persons other than the commissioners, &c. not to come into operation until confirmed.

203. No such byelaws shall be confirmed unless notice of the intention to apply for a confirmation of the same have been given in one or more newspapers circulating within the limits of the special Act one month at least before the hearing of such application; and any person desiring to object to any such byelaw, on giving to the commissioners notice of the nature of his objection ten days before the hearing of the application for the allowance thereof, may by himself or his counsel, attorney, or agent be heard thereon, but not so as to allow more than one objecting party to be heard on the same matter of objection.

Notice of application for confirmation to be given.

Persons may be heard in objection to byelaws.

204. For one month at least previous to any such application for confirmation of any byelaw a copy of the proposed byelaws shall be kept at the principal office of the commissioners, and all persons may at all reasonable times inspect such copy without fee or reward; and the commissioners shall furnish every person who applies for the same with a copy thereof, or of any part thereof on payment of sixpence for every one hundred words so to be copied.

Copy of proposed byelaws to be open to inspection.

205. Such byelaws, when confirmed, shall be published in the prescribed manner, and when no manner of publication is prescribed they shall be printed, and the clerk to the commissioners shall deliver a printed copy thereof to every person applying for the same, without charge; and a copy thereof shall be painted or placed on boards, which shall be hung up on the front or in some conspicuous part of the principal office of the commissioners, and also on some conspicuous part of the works or locality to which the same relate; and such boards, with the byelaws thereon, shall be from time to time renewed as occasion requires, and shall be open to inspection without fee or reward; and any such clerk who does not allow the same to be inspected at all reasonable times shall for every such offence be liable to a penalty not exceeding five pounds.

Publication of byelaws.

206. Such byelaws, when so confirmed and published, shall be binding upon and be observed by all parties, and shall be sufficient to justify all parties acting under the same.

Byelaws to be binding on all parties.

Evidence of
byelaws and
publication.

207. The production of a written or printed copy of the byelaws requiring confirmation by a judge of the superior courts or the court of quarter sessions, authenticated by the signature of the judge or of the chairman of the court which approved of the same, and a written or a printed copy of the byelaws not requiring such confirmation, authenticated by the common seal of the commissioners, if they be incorporated, or, if not incorporated, authenticated by the signatures of two commissioners, shall be evidence of the existence and of the due making of such byelaws in all prosecutions under the same, without adducing proof of the signature of such judge or chairman, or the common seal or signatures of the commissioners; and with respect to the proof of the publication thereof it shall be sufficient to prove that a board containing a copy thereof was affixed and continued in the manner by this Act directed, and, in case of its being afterwards displaced or damaged, that such board was replaced or restored as soon as conveniently might be, unless proof be adduced by the party complained against that such painted board did not contain a copy of the byelaw under which he is prosecuted, or that it was not duly affixed or continued as required by this Act.

Penalty on
pulling down
boards on
which byelaws
are painted,
&c.

208. Any person who destroys, pulls down, injures, or defaces any board on the premises of the commissioners, on which any byelaw of the commissioners is painted or placed, shall for every such offence be liable to a penalty not exceeding five pounds.

[*S. 209 rep. 57 & 58 Vict. c. 56. (S.L.R.)*] ✓

*Recovery of
damages and
penalties.*

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows:

Clauses of
8 & 9 Vict.
c. 20., as to
recovery of
damages,
penalties, &c.
incorporated.

210. The clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and penalties, and to the determination of any other matter referred to justices, shall be incorporated in this and the special Act; and such clauses shall apply to the town or district within the limits of the special Act, and to the commissioners, and shall be construed as if the word "commissioners" had been inserted therein instead of the word "company."

[*S. 211 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Acts which
may be done
by one
magistrate.

212. All things herein or in the special Act, or any Act incorporated herewith, authorized or required to be done by two justices, may and shall be done by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices.

False evidence.

213. Every person who, upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

rep. 10 & 11 Vict. c. 34.
S. 103

And with respect to affording access to the special Act, be it enacted as follows: *Access to special Act.*

214. The commissioners shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace of the county in which the town or district within the limits of the special Act is situated a copy of such special Act, so printed as aforesaid; and the said clerk of the peace shall receive, and he and the commissioners respectively shall retain, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for defraud, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837. Copies of special Act.
7 Will. 4. &
1 Vict. c. 83.

215. If the commissioners shall fail to keep or deposit, as herein-before mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy is not so kept or deposited. Penalty on commissioners failing to keep or deposit such copies.

[*S. 216 rep. 38 & 39 Vict. c. 66. (S.L.R.)*] ✓

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.) Sect. 172.

Form of Rate.

AN assessment to the sewer rate [or other rate, &c., as the case may be,] for the [name the district or town], made this day of in the year of our Lord 18 , after the rate of pence in the pound, by virtue of the [name special Act].

No. on the rate.	Name of person rated.	Name of the owner of property rated.	Description and situation of property.	Gross annual value.	Full net annual value.	Rate at d. in the pound.	Amount of drainage rate (if any).

Signed by us this day of in the year of our Lord

A.B.

C.D.

E.F.

G.H.

I.K.

L.M.

}

_____Improvement Commissioners.

SCHEDULE (B.)

Sect. 192.

Form of Warrant of Distress for the recovery of a Rate.

County of }
 [or Borough, &c.] }
 to wit.

Whereas complaint hath been duly made by , one of the collectors of rates to the Improvement Commissioners, that of, &c., hath not paid and has refused to pay the sum of , duly assessed upon him in and by a certain rate for the said town [or district] called the [here name the rate], bearing date on or about the day of , in the year of our Lord one thousand eight hundred and , and duly made according to the directions and for the purposes of [here name the special Act], although the same hath been duly demanded of him: And whereas it appears to me , one of her Majesty's justices of the peace in and for the said county [or borough, &c.], as well upon the oath of one of the said collectors of rates, as otherwise, that the said sum of hath been duly demanded in writing by him from the said , and that the said hath refused to pay the same for the space of fourteen days after such demand made, and doth refuse to pay the same: And whereas the said , having appeared before me in pursuance of my summons for that purpose, hath not shown to me any sufficient cause why the same should not be paid [or And whereas it has been duly proved to me upon oath that the said hath been duly summoned to appear before me to show cause why he refuseth to pay the said rate or assessment, but he the said hath neglected to appear according to the said summons, and hath not shown to me any sufficient cause why the same should not be paid]: These are therefore, in her Majesty's name, to command you to levy the said sum of by distress of the goods and chattels of the said ; and if the same shall not be paid within the space of days next after such distress by you taken, together with the reasonable charges of taking and keeping the same, that then you do sell the said goods and chattels by you distrained, and out of the money arising by such sale that you do detain the sum of , and also your reasonable charges of taking, keeping, and selling the said distress, rendering to him the said the overplus, on demand; and if sufficient distress cannot be found of the goods and chattels of the said whereon to levy the said sum of , that then you certify the same to me, together with this warrant, to the end that such further proceedings may be had therein as to the law doth appertain. Given under my hand and seal, the day of in the year of our Lord 18 .

J.P. (L.S.)

CHAPTER XXXVIII.

AN ACT to facilitate the Drainage of Lands in England and Wales. [1]

[21st June 1847.]

[*Preamble.*]

[1.] The Inclosure Commissioners for England and Wales shall be the commissioners to carry this Act into execution, and the assistant commissioners, secretary, clerks, messengers, and officers who may be from time to time appointed under the provisions of the Inclosure Act, 1845, shall assist in carrying this Act into execution, in like manner as if the matters and proceedings by this Act directed or authorized were matters and proceedings directed or authorized by the said recited Act.

Inclosure Commissioners to carry this Act into execution. 8 & 9 Vict. c. 118

2. All the powers by the said recited Act given to the assistant commissioners to require the attendance of witnesses, to administer or receive declarations and examine witnesses, and to cause to be produced before them writings and documents, and the power given to the said commissioners to delegate to the assistant commissioners, or to any one or more of them, the powers given to such commissioners, except the power to do any Act required to be done under the seal of the commissioners, shall be applicable to and may be exercised for the purposes of this Act as fully and effectually as if the matters and proceedings hereby authorized or directed to be done and taken by the commissioners, or by any assistant commissioner, were matters and proceedings authorized or directed to be done and taken under the said recited Act.

Powers of recited Act with respect to assistant commissioners to extend to this Act.

3. The said commissioners shall from time to time give to any one of her Majesty's Principal Secretaries of State such information respecting their proceedings under this Act as such Principal Secretary of State shall require, and shall once in every year send to one of the Principal Secretaries of State a general report of such proceedings, and every year such general report shall be laid before both Houses of Parliament within six weeks after the receipt of the same by such Principal Secretary of State if Parliament be sitting, or if Parliament be not sitting, then in six weeks after the next meeting thereof.

Reports of commissioners.

4. Where any land shall be capable of being drained or improved by drainage or warping, by means of works to be executed on the same and other lands, for obtaining or improving the outfall or otherwise, it shall be lawful for any persons interested in the land so capable of being drained or improved, and who shall be desirous for that purpose to execute all or any of the works herein-after mentioned and shall be unable to execute such works by reason of the objection or disability of any person whose land would be entered upon, cut through, or interfered with by or for the purpose of such works, to apply

Memorial to commissioners for authority to effect works under this Act.

[1] Short title, "The Land Drainage Act, 1847." See 55 & 56 Vict. c. 10.]

Map or plan,
schedules, and
estimates, to
be annexed
to memorial.

Memorial,
&c. to be
deposited, and
open to
inspection.

by memorial to the commissioners, showing the means by which such land may be drained or such improvement may be effected, and praying for authority to effect such drainage or improvement under the provisions of this Act; and to such memorial shall be annexed a map or plan showing the land to which such application shall relate, and the land and property required to be entered upon, cut through, or interfered with for the purposes of such drainage or improvement, or likely to be affected by the proposed works, and also the rivers, watercourses, ditches, and drains intended to be cleared, scoured, deepened, or embanked, and the proposed variations, diversions, abridgments, or enlargements of the same, and the new cuts, embankments, drains, watercourses, and other works proposed to be made, and the engines and machinery proposed to be erected for the purposes of such drainage or improvement; and also schedules showing the reputed proprietors, lessees, and occupiers of the lands proposed to be drained and improved, and the lands and property required to be entered upon, cut through, or interfered with respectively for the purpose of such drainage or improvement, and also an estimate of the expence of the proposed works, engines, and machinery, including the probable amount of money payable as purchase and compensation money in respect of the land and property required to be entered upon, cut through, or interfered with, and also a statement of the actual condition of the lands proposed to be drained or improved, and of the probable increased value of the land consequent upon the proposed works; or in case it shall appear to the commissioners that a correct judgment can be formed on the proposed means of drainage or improvement without a map or plan and estimates including the whole of the land to which such memorial shall relate, then a map or plan showing only the proposed works, or such other map or plan as the commissioners shall think necessary; and such memorial, or some schedule thereto, shall also show the persons by whom the works are proposed to be executed; and the persons by whom such application shall be made shall, upon the request of the commissioners, furnish such further details in respect of the said map or plan, schedules, estimates, and statements, or any of them, as the commissioners shall think fit, for their guidance in the matter of the memorial; and the persons by whom such application shall be made shall cause copies of the said memorial, map, or plan, schedules, estimates, and statements, or of such of them as shall have been furnished to the commissioners under the provisions hereinbefore contained, to be deposited in such convenient place or places as the commissioners shall approve within or near the parish or one of the parishes in which the land to which such application shall relate shall be situate, there to remain open for public inspection for a period of one month; and the deposit of such copies shall be certified to the commissioners in such manner as they shall require; and all persons shall be at liberty to inspect and make copies of or extracts from the said memorial,

map, or plan, schedules, estimates, and statement, or any of them, and copies thereof or extracts therefrom shall be made by such person as the commissioners shall direct for any person who shall require the same, on payment of the costs of making such copies or extracts.

5. The commissioners shall require the persons making such application as aforesaid to cause a notice of such memorial having been presented, and of the parishes in which works are by such memorial proposed to be executed, and of the places in which copies of the said memorial, map, or plan, schedules, estimates, and statements, have been deposited as aforesaid, to be given by advertisement twice in one or more newspapers circulated in the county in which such works are proposed to be executed, and to cause a like notice to be served on all persons not parties to the said application whose lands are proposed to be entered upon, cut through, or interfered with; and such service shall be either personally on the lessee or occupier of such land, or by leaving such notice at the usual or last known place of abode of such lessee or occupier; and also cause a like notice to be served on the proprietor or reputed proprietor of such land, or his agent, either personally, or by leaving the same at his usual or last known place of abode; and by such notice all parties interested or in any way affected by the proposed works shall be required, on or before a day to be therein named, not sooner than six weeks from such publication and service as aforesaid of such notice, to transmit in writing to the commissioners all objections which such parties shall think fit to make with respect to any thing by the said memorial proposed to be done under the provisions of this Act.

Notices to be given that memorial, &c. has been deposited

Parties interested to be required to transmit to commissioners objections to what is proposed.

6. The commissioners may in every case, before they shall proceed to act or inquire on or in relation to any such memorial as aforesaid, require such provision or security to be made or given as they shall think fit for the payment, by the parties making the application, of all costs incident to or to be occasioned by the inquiries and proceedings in relation thereto.

Commissioners may require security for costs of inquiries.

7. In every case in which there shall have been transmitted to the commissioners objections to any thing by the said memorial proposed to be done the commissioners shall appoint an assistant commissioner to inspect the lands proposed to be drained or improved, and the lands intended to be entered upon, cut through, interfered with, or affected by the works in such memorial mentioned; and the commissioners shall, if they shall think necessary, call one or more public meetings, of which twenty-one days' notice at the least shall be given to any person who may have notified his objection to the commissioners, and by advertisement in one or more newspapers circulated in the county in which such works are proposed to be executed, of all persons likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such

If objections are transmitted to commissioners, they shall appoint an assistant commissioner,

and call a public meeting of persons interested.

Assistant commissioner shall attend meeting, make inquiries, and hear objections.

day or days subsequent to the expiration of such period of six weeks, and at such convenient place or places within the parish or one of the parishes wherein such land so to be drained or improved shall be situate, or in the vicinity thereof, as the said commissioners shall specify in such notice; and at the time and place named in such notice as aforesaid the assistant commissioner so appointed as aforesaid shall attend, and shall have power to adjourn any meeting from time to time, or hold any new meeting as he may find necessary, and shall inquire into the correctness of the schedules containing the names of such reputed proprietors, lesses, and occupiers as aforesaid, and shall inquire whether the notices by the Act required shall have been duly given and served, and shall hear and inquire into all such objections as shall have been or shall be then and there made by any person or persons interested in any land likely to be affected by any thing by such memorial proposed to be done; and the said assistant commissioner shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid.

Assistant commissioner to report to commissioners, who shall consider the proposed drainage.

8. The assistant commissioner appointed as aforesaid shall report his opinion on the proposed drainage or improvement, and on the objections thereto, with the evidence taken by him at the meeting or meetings, (if any shall be held as aforesaid,) or otherwise, to the commissioners, and the commissioners shall consider the proposed drainage or improvement, and such objections as may have been made thereto, and may make further inquiries, and take further evidence in relation thereto, if they shall think fit; and in case they shall be of opinion that such drainage or improvement may be effected without material detriment to the lands proposed to be cut through or affected, or that the damage to the lands so proposed to be cut through or affected may be adequately and effectually compensated under the provisions of this Act, they may allow such works according to the proposal in such memorial contained, or with such alterations therein as they may think fit; and it shall be lawful for the commissioners, by an order under their seal, to authorize the persons by whom such application shall have been made, or any of them, or any other person or persons to be named or described by the commissioners in such order, to execute the proposed works, as the same shall have been allowed as aforesaid, within a time to be limited in such order; and such order, or some plan thereunto annexed, shall specify or describe the works thereby authorized to be executed; and the person or persons authorized in this behalf by such order, or the person or persons who shall be authorized by any supplementary order of the commissioners, shall have full power to execute the works in such order specified and authorized according to the terms and intent of such order, and to maintain such works for ever thereafter, subject nevertheless to the provisions herein after contained, and making compensation, to be ascertained in

Commissioners may, by order under their seal, authorize the execution of the proposed works, as allowed by them.

Persons authorized shall have power to execute and maintain works, making compensation for damage done.

manner herein-after mentioned, to all persons for any damage occasioned to them by the exercise of the powers granted by such order, or any of them.

9. It shall be lawful for the person or persons authorized as aforesaid to enter into and upon any land in the order of the commissioners, or the plan thereunto annexed, described or shown, and in conformity with the terms of such order, but not otherwise, to widen, straighten, deepen, divert, scour or cleanse any river, stream, ditch, or drain, brook, pool, or watercourse, and to make, open, and cut any new watercourse, side cut, ditch, or drain, and to alter or remove any bank, sluice, floodgate, clough, hatch, weir, dam, or other obstruction, and to make or erect any bank, sluice, floodgate, hatch, ditch, drain, tunnel, or other works necessary or convenient for drainage or for warping, and to dam, bar, and stop up with any weir or dam any river or watercourse, and to erect and maintain on such land steam and other engines and machinery: Provided always, that no entry shall be made on any land for the purposes aforesaid, except with the consent of the proprietors thereof, until the amount of compensation for the damage to be occasioned by such entry, and by the execution and maintenance of the works authorized as aforesaid, shall have been agreed upon or ascertained, as the case may be, and paid, under the provisions herein-after contained or agreed to.

Persons authorized to execute works may enter upon lands for that purpose.

No entry to be made on land without consent until compensation is made.

10. It shall be lawful for the commissioners, by any such order as aforesaid, to authorize any person or persons therein mentioned to purchase and take, as the site of any engine house, or for any other purpose necessary for the works thereby authorized, any land, not being in any park or pleasure ground, in such order to be described: Provided always, that not more than three acres be purchased or taken under this clause otherwise than by agreement; and all the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the purchase of land otherwise than by agreement shall apply to the purchase of any land not exceeding three acres which shall be specially described in such order, and which shall be thereby authorized to be taken otherwise than by agreement; and the provisions of the last-mentioned Act with respect to the purchase of land by agreement shall apply to the purchase of any land by such order authorized to be purchased, except as aforesaid; and all lands to be purchased or taken under this clause shall be conveyed to or held by such persons and upon such trusts as the commissioners shall by such order direct.

Power to purchase lands for sites of engine houses, &c.

8 & 9 Vict. c. 18.

11. The compensation to be paid for the damage or injury to any lands which may be entered upon, cut through, or interfered with under any such order of the commissioners as aforesaid may be agreed upon with the persons and in the manner provided by the Lands Clauses Consolidation Act, 1845, with respect to the purchase of land otherwise than by agreement; and the

Compensation for damage.

8 & 9 Vict. c. 18.

persons who in such order of the commissioners shall be authorized to execute the works in such order mentioned shall, for the purposes of the last-mentioned Act and of this Act, be deemed the promoters of the undertaking; and all other the provisions of the Lands Clauses Consolidation Act, 1845, shall be incorporated with this Act, and shall apply thereto, and to the works and purchases to be authorized by the commissioners, in such and the same manner as if the works and purchases which shall be authorized by the commissioners had been set forth and authorized to be executed and made by this Act.

Streams supplying ornamental waters not to be interfered with without consent.

12. Provided always, that no order of the commissioners under this Act shall authorize any work whereby the streams, reservoirs, or feeders supplying any ornamental waters shall be cut through, diverted, or interfered with, otherwise than by agreement and with the consent of the persons to whom such ornamental waters belong.

Copies of orders of commissioners authorizing works to be deposited with clerk of the peace and church-wardens.

13. Two copies of every order of the commissioners by which they shall authorize the execution of works under the provisions of this Act shall be made and sealed with the seal of the commissioners; and one such copy shall be deposited with the clerk of the peace of the county in which the land authorised to be drained or the greater part thereof shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises; and the other copy shall be deposited with the church or chapel wardens for the time being of the parish in which the said land or the greater part thereof shall be situate, to be kept by them and their successors in office with the public books, writings, and papers of the parish, or shall be deposited with such other fit persons as the commissioners shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of two shillings and sixpence for such inspection, and after the rate of three-pence for every seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any such order as aforesaid as shall be furnished by the clerk of the peace shall be signed by the clerk of the peace or his deputy, purporting the same to be a true copy or extract; and every such copy and extract so signed shall be received in evidence without further proof thereof.

Copies of orders to be open to inspection, &c.

Copies certified by clerk of the peace or his deputy to be evidence.

14. And whereas by reason of the neglect of or want of co-operation among the occupiers of lands to maintain the banks and cleanse and scour the channels of existing drains, streams, or watercourses, lying in or forming the boundaries of such lands, and being or leading to the outfall from such lands and from other lands, much injury is occasioned and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid: Be it therefore enacted, that in all

cases where by reason of the neglect of any such occupier to maintain or join in maintaining the banks, or to cleanse and scour or join in cleansing and scouring the channels, of existing drains, streams, or watercourses, lying in or bounding the lands of such occupier, injury shall be caused to any other land, it shall be lawful for the proprietor or occupier of any land so injured to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing delivered to him or left at his usual place of abode, effectually to maintain such banks or cleanse or scour such channels, or to join in effectually maintaining such banks or cleansing and scouring such channels, of such drains, streams, and watercourses; and in case he shall neglect so to do it shall be lawful for the occupier of the land to which such injury shall be caused, immediately after the expiration of one calendar month from the service of such notice as aforesaid, to execute or cause to be executed, or to join with any other person in executing or causing to be executed, all necessary works for maintaining or repairing such banks, or cleansing or scouring such channels as aforesaid; and in case the expences paid or incurred in executing or causing to be executed such works as aforesaid, or the just proportion thereof which should have been paid or borne by the occupier so neglecting as aforesaid, shall not be paid to the person by whom the same shall have been paid or incurred by the occupier so neglecting as aforesaid within one calendar month after demand, it shall be lawful for any justice, upon the application of the person by whom such expences shall have been paid or incurred, to summon the proprietor or occupier so neglecting as aforesaid to appear before two justices at a time and place to be named in such summons; and upon the appearance of the person so summoned, or in his absence, upon due proof of the service of such summons, it shall be lawful for such two justices, upon proof of such neglect as aforesaid, and of the injury occasioned thereby, and of the expences paid or incurred as aforesaid, to make an order for the payment by the occupier so neglecting of the expences aforesaid, or of such just proportion of the same as such occupier so neglecting ought in the opinion of the said justices to contribute and pay; and it shall be lawful for the said justices, upon any such application as aforesaid, to award such costs to be paid by such party and in such manner as to such justices shall seem reasonable; and the amount of such expences and costs respectively may be recovered by distress.

15. Provided always, that, unless such drain, stream, or watercourse as aforesaid shall be a boundary of or immediately adjoining to the land of the occupier whose land shall have been injured by such neglect as aforesaid, it shall not be lawful for the occupier whose land shall have been so injured to enter upon the land of any other person in the execution of the works aforesaid without a warrant or authority in writing so to do from two or more justices, which warrant or authority such justices shall grant upon inquiry had before them, after a

Maintenance
of banks
between ad-
joining lands.

No entry to
be made on
the lands of
any other
person without
warrant of two
justices.

summons served upon the occupier of the land so to be entered upon, if it shall appear to such justices that the neglect of the occupier of the land so to be entered upon has occasioned injury to the lands of the occupier applying for such warrant or authority: Provided also, that it shall be lawful for the justices before whom any occupier of land shall be summoned to appear under this Act, and whether such proprietor or occupier shall or shall not have appeared, to adjourn the hearing or further hearing of any application for any order, or for any warrant or authority under this Act, to a subsequent day, and to appoint a competent person to view in the meantime the drain, stream, or watercourse, and to report thereon to the justices on the day to which such hearing shall have been adjourned, or the said justices or any of them may in the meantime attend and view such drain, stream, or watercourse.

[*Ss. 16, 17 rep. 47 & 48 Vict. c. 43. s. 4.*]

Nothing to
affect rights of
any commis-
sioners of
sewers or
drainage, &c.

18. Provided always, that nothing in this Act contained shall affect the rights, duties, privileges, powers, or authorities vested in or to be discharged by any commissioners of sewers appointed by any commission under the great seal, or under the seal of the Duchy of Lancaster, or by any other lawful commission of sewers, or the commissioners appointed under any local or private Act of Parliament for sewers or drainage, or shall extend to or affect any charter, law, usage, or custom concerning Romney Marsh, or concerning the great level of the fens called the Bedford Level, or any part thereof: Provided nevertheless, that if the persons interested in any lands authorized to be drained under local or private Act of Parliament for the inclosure and drainage of any lands, or if any portion not being less in number and value than two-thirds of the persons so interested, shall be desirous of having such lands drained under the provisions of this Act, and shall notify such their desire by writing under their hands to the commissioners under this Act, then such commissioners and their assistant commissioners respectively shall and may, notwithstanding any provision in any such local or private Act contained, have and exercise all the powers given to them by virtue of this Act with reference to the lands authorized to be drained by such local or private Act, as if all the clauses therein contained for or regarding the drainage of such lands were repealed by this Act.

No works to
be constructed
on foreshore
without con-
sent of the
Admiralty, &c.

19. Provided always, that it shall not be lawful for any person acting or pretending to act under this Act to make or construct, alter or extend, on the shore of the sea, or of any creek, bay, or arm of the sea, or any navigable river communicating therewith, where and so far up the same as the tide flows, any work which might not have been lawfully made or constructed in case this Act had not been passed, without the previous consent of the Lord High Admiral of the United Kingdom of Great Britain

and Ireland, or the Commissioners for executing the office of Lord High Admiral of the United Kingdom aforesaid, for the time being, to be signified in writing under the hand of the Secretary of the Admiralty, and then only according to such plan and under such restrictions and regulations as the said Lord High Admiral, or Commissioners for executing the office of Lord High Admiral aforesaid, may approve of, such approval being signified as last aforesaid; and if any such work shall be commenced or completed contrary to the provisions of this Act, it shall be lawful for the said Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral aforesaid, at his or their discretion, to abate and to remove the same, and to restore the site thereof to its former condition, at the cost of the person, or of any one or more of the persons, by whom the same shall have been so commenced or completed: and nothing herein contained shall authorize or enable any person acting or pretending to act under this Act to make or construct any work injurious to the navigation of any navigable river or canal, or to use or occupy land between high and low water mark, without the consent of her Majesty's Commissioners of Woods.

20. In the construction of this Act (except where the nature of the provision or the context of the Act is repugnant to such construction) "the commissioners" shall mean the said Inclosure Commissioners for England and Wales; and the word "plan" shall extend to drawings and sections; and the word "river" shall extend to all rivers, rivulets, lakes, canals, streams, and estuaries; and the word "person" and the word "proprietor" shall extend to the Queen's Majesty, and to all bodies politic, corporate, or collegiate, and also all bishops, parsons, and other ecclesiastical persons; the words "persons interested in the land" shall mean such persons as would be deemed to be so interested under the provisions of the Inclosure Act, 1845; the word "agent" shall extend to any person employed to receive rents; the word "justice" shall mean justice of the peace acting for the county, riding, city, division, liberty, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and the words "churchwarden" and "parish" shall respectively extend to any chapelwarden or other officer executing any similar duties, and to any township or other division or extra-parochial place for which such officer is appointed; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices assembled and acting together in petty sessions: and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and

Interpretation
of terms.

8 & 9 Vict.
c. 118.

every word importing the masculine gender only shall extend and be applied to a female as well as a male.

[*S. 21 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XLII.

AN ACT to transfer the Collection and Management of the Duties in respect of *Railway Passengers* from the Commissioners of Stamps and Taxes to the Commissioners of Excise. [25th June 1847.]

[*Preamble.*]

Duties in respect of railway passengers under 5 & 6 Vict. c. 79. transferred to the Commissioners of Excise

[1.] The several and respective duties herein-after specified and described; (that is to say,) the duties granted and now payable in Great Britain by and under an Act passed in the fifth and sixth years of the reign of her present Majesty, . . . for and in respect of passengers conveyed upon railways, . . . shall be and the same are hereby transferred to and placed under the care and management of the Commissioners of Excise for the time being; and the said several and respective duties shall thenceforth be denominated and deemed to be duties of excise, and shall be raised, levied, collected, and accounted for by and under the authority of the Commissioners of Excise and their officers, any thing in any former Act or Acts contained to the contrary notwithstanding.

Powers and provisions of the Acts relating to the duties transferred, and of other Excise Acts, to be executed by Commissioners and officers of Excise for raising duties, &c.

2. All the powers, provisions, regulations, and directions now in force contained in the said several Acts herein-before mentioned or referred to, or in any other Act or Acts, and which at the time of the passing of this Act may lawfully be executed and enforced by the Commissioners of Stamps and Taxes or their officers, in relation to the said respective duties hereby transferred as aforesaid, shall be executed and enforced by the Commissioners of Excise and their officers respectively, as fully and effectually to all intents and purposes as if such powers, provisions, regulations, and directions had been repeated and re-enacted in this Act, and expressly given to the said Commissioners of Excise and their officers respectively; and all the powers, provisions, regulations, and directions, forfeitures, pains, and penalties contained in or imposed by any Act or Acts now in force relating to the said respective duties hereby transferred as aforesaid, as well as the powers, provisions, regulations, and directions, forfeitures, pains, and penalties contained in or imposed by any Act or Acts in force in relation to any of the duties of excise, so far as such last-mentioned powers, provisions, regulations, and directions, forfeitures, pains, and penalties shall be applicable to the said respective duties hereby transferred as aforesaid, and so far as the same shall not be inconsistent with the special powers, provisions, regulations

and directions, forfeitures, pains, and penalties now in force in relation to the said respective duties hereby transferred as aforesaid, shall be of full force and effect, and shall be applied, enforced, and put in execution for raising, collecting, levying, recovering, and securing the said last-mentioned duties, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such powers, provisions, regulations, and directions, forfeitures, pains, and penalties were repeated and specially enacted in this Act with reference to the said respective duties hereby transferred as aforesaid; and wherever in any Act or Acts now in force in relation to the said last-mentioned respective duties, . . . the Head Office for Stamps or for Stamps and Taxes, or the Solicitor of Stamps or for Stamps and Taxes, or any officer of stamp duties or for stamps and taxes, is mentioned or designated, the same shall in relation to the said respective duties hereby transferred as aforesaid, . . . be deemed and taken to mean the Chief Office of Excise in London, the Solicitor of Excise, and any officer of excise respectively.

[*Ss. 3-6 rep. 38 & 39 Vict. c. 66 (S.L.R.)*]

CHAPTER XLVI.

AN ACT to facilitate the temporary Investment of Trust Monies in the Improvement of Landed Property in Ireland.

[25th June 1847.]

. . . Whereas it may happen that there are now or hereafter may be in the hands or standing to the account of trustees or a trustee of a settlement or will or codicil monies produced by the sale or received for equality of exchange of settled estates or hereditaments in Ireland, under a power of sale or exchange, or under trusts for sale, in such settlement or will or codicil contained, or stocks or securities purchased with such monies, and which monies are liable to be laid out in the purchase of other estates or hereditaments in Ireland or elsewhere, to be settled to the same or the like uses or upon and for the same or the like trusts and purposes as the estates or hereditaments from the sale or exchange of which such monies were produced, and there may be now or hereafter monies in the hands or standing to the account of trustees or a trustee of a settlement, will, or codicil, produced by a sale or sales of settled lands or hereditaments in Ireland, compulsorily or otherwise, made to or for the purposes of a railway or other public work, or other monies, stocks, or securities liable to be laid out in the purchase of lands or hereditaments, and which monies respectively may be advantageously advanced for the purpose of being laid out in the permanent improvement of the lands or hereditaments

remaining unsold or in settlement for the time being, and there may be now or hereafter monies or stocks or securities in the hands or standing to the account of trustees or guardians for infants or others under legal disability, or monies of persons of unsound mind, which may be advantageously advanced for the purpose of being employed in the permanent improvement of the estates of such infants, persons of unsound mind, or others under legal disability :

Trustees, &c.
of settled
estates may
petition the
Court of
Chancery for
permission to
lay out monies
arising from
sale or ex-
change of
settled lands,
in the im-
provement of
lands already
settled.

[1.] It shall be lawful for any such trustee or trustees, (with the consent of any person or persons beneficially interested, in possession, if of full age,) or guardian or guardians, and for the committee or committees of any persons of unsound mind, and they are hereby authorized, to apply to the High Court of Chancery in Ireland, by petition to the Lord High Chancellor, praying that he or they may be authorized to make any such permanent improvements of any such lands or hereditaments in Ireland respectively as aforesaid, by laying out and expending thereon any sum or sums proposed by such petition, in such manner as therein may be mentioned and described, and in such petition to pray that the expences of making any such permanent improvements may be defrayed by advances out of any such monies or funds in the hands or to the account of such trustees or guardians or others as aforesaid.

Court may
refer petition
to a master,
and obtain his
report.

2. Upon the presentation of any such petition as aforesaid it shall be lawful for the said court, without requiring the attendance of any counsel or solicitor, to refer it to one of the masters of the said court to make all necessary and proper inquiries, and to consider all such evidence, estimates, and valuations as shall be produced before him in relation to the matter of such petition, and thereupon to report whether in his opinion it will be beneficial to all persons interested in the lands that such permanent improvements as last aforesaid should be made under the provisions of this Act, and whether, having regard to the nature of such improvement, the money so to be expended, or any part thereof, should be repaid, and, if to be repaid, by any and what instalments, and with any and what interest, and with what priority.

Report of
master and
order of court
thereon.

3. In proceeding under such order of reference the said master shall cause such notice thereof to be given by advertisement or otherwise as he shall think fit or the Court of Chancery shall by any general or other order direct, and shall hear all parties interested in the subject matter of such reference who may appear before him, and shall report on the matters so to him referred, and such report shall be filed according to the practice of the said court, and thereupon it shall be lawful for the said court, without requiring the attendance of any counsel or solicitor, upon the petition of the party obtaining the same, to confirm the said report absolutely, or make such alteration therein as shall be fit, and to make an order authorizing or

permitting such permanent improvements to be made, and the expences of making the same, together with the expences of obtaining the authority of the said court, to be accordingly advanced out of such monies respectively aforesaid, and which order shall be registered in the office of the registrar of judgments, in like manner and on payment of like fees as those upon which any decree or order may be registered, and thereupon it shall be lawful for such trustees or guardians, or other person or persons, to whom such monies or funds as aforesaid shall have been paid, or in whose care, custody, or possession the same shall be and remain for the time being, in the several cases respectively aforesaid, to advance and lay out such monies accordingly.

4. After such monies shall have been so advanced and laid out as aforesaid, it shall be lawful for such trustees or guardians or others from time to time to apply to the said court, by petition to the Lord High Chancellor, for a reference to the said master to ascertain that the same have been properly expended in or about the making of such improvements, and in paying or providing for the expences incurred and to be incurred of obtaining the authority of the said court; and upon the said master making his said report, and thereby finding that such monies or any part thereof had been so properly expended as aforesaid, and upon the said report being duly filed according to the practice of the said court, then it shall be lawful for the said court, without requiring the attendance of any counsel or solicitor, to make an order to confirm the said report absolutely, and thereupon such trustee or trustees, guardian or guardians, or committees, or other such persons as aforesaid, shall be for ever fully released, exonerated, and discharged from all and every liability or responsibility on account of or concerning any such application of any such trust or other monies, or such part thereof in respect of which such order shall have been so made as last aforesaid, subject nevertheless to any orders or provisions of the Lord Chancellor from time to time in that behalf made or provided.

Reference to
and report of
master as to
expenditure.

5. In every case in which such advances shall be made as last herein-before authorized, and the master shall have reported that such advances ought to be repaid, the lands intended to be improved by means thereof shall, from the respective times of making such advances, become and be charged with the repayment to such trustees, guardians, or committees, or others, for the time being making or entitled to be repaid such advances, of the amount of such respective advances, with interest, if any, for the same, in such manner, with such priority, and subject to such conditions, provisoes, and restrictions, as the Lord Chancellor by any order or provision in that behalf shall from time to time direct.

If master
report that
advances ought
to be repaid,
such advances
to be charged
on lands
improved.

6. Tenants for life and others having only a limited interest in the land charged shall be bound to pay such charges, interest,

Tenants for
life, &c. bound

to pay charges becoming due during continuance of their estates, and to maintain works in good condition.

In default of payment, trustees, &c. may apply by petition for appointment of receiver.

or instalments as may be directed by any such order or provision as last aforesaid which shall from time to time become due and payable by them during the continuance of their respective estates or interests, and shall be bound to uphold and maintain in good order and condition the works on account of which the lands shall have been so charged as aforesaid, as if such persons respectively were tenants for life subject to impeachment for waste; and in case such tenants for life and others shall not pay such charges, interest, and instalments as may be directed by any such order or provision, at the time when the same shall so become due and payable, such trustees, guardians, or committees, or others shall apply to the said Court of Chancery, by petition for the appointment of a receiver to collect the rents of such lands until such charges, interests, and instalments shall have been duly paid; and upon such petition it shall be lawful for the said court to appoint such receiver, and to make such further order or provision in the premises as to the said court may seem fit.

After petition presented, further applications may be by motion.

Costs.

Rules and orders.

7. After a petition shall have been presented under this Act any further application to the court may be made by motion, without petition; and the court shall have power to order costs to be paid to or by any party; and it shall be lawful for the Lord Chancellor of Ireland, with the advice and consent of the Master of the Rolls for the time being, from time to time and as often as circumstances shall require, to make and prescribe such provisions, rules, and orders, either general, or with respect to any particular proceedings to be had and taken in Chancery under or for the purposes of this Act, and the practice to be observed by the court in relation to such proceedings or any matters incident thereto, as shall from time to time seem necessary or expedient.

[S. 8 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER LII.

AN ACT for the Correction of certain Abuses which have frequently prevailed at the Elections of Representative Peers for Scotland. [1] [25th June 1847.]

WHEREAS by an Act passed by the Parliament of Scotland, intituled "An Act settling the manner of electing the sixteen peers and forty-five commoners, to represent Scotland in the "Parliament of Great Britain," certain provisions were made for electing the said sixteen peers to represent the peerage of Scotland. And whereas by an Act passed by the Parliament of Great Britain, intituled "An Act to make further provision for

6 Ann. c. 73.

[1 Short title, "The Representative Peers (Scotland) Act, 1847." See 55 & 56 *Vict. c.* 10.]

“ electing and summoning sixteen peers of Scotland to sit in the
 “ House of Peers in the Parliament of Great Britain, and for
 “ trying peers for offences committed in Scotland, and for further
 “ regulating of votes in election of members to serve in Parlia-
 “ ment,” further provisions were made for the electing of the
 said sixteen peers : And whereas an authentic list of the peerage
 of the north part of Great Britain called Scotland, as it stood
 the first day of May one thousand seven hundred and seven, was
 returned to the House of Lords by the Lord Clerk Register for
 Scotland, attested by him, pursuant to an order of the House of
 Lords, the twenty-second day of December one thousand seven
 hundred and seven, and entered into the roll of peers by order
 of the House of Lords on the twelfth day of February one
 thousand seven hundred and eight, to which list sundry peerages
 of Scotland have since been added by order of the House of
 Lords at different times, which list of the said peerage is called
 at the election of a peer or peers to represent the peerage of
 Scotland in the Parliament of the United Kingdom of Great
 Britain and Ireland : And whereas divers of the peerages of
 Scotland have from time to time become dormant or extinct, and
 frequent abuses have prevailed by persons assuming peerages
 that have become dormant or extinct, and voting in respect
 thereof at such elections, to which peerages such persons had no
 right ; and it is expedient, in order to prevent such abuses, to
 provide that no person shall be allowed to vote at such elections
 in right of any peerage now standing on the said roll which has
 been for some time dormant until his claim thereto shall
 have been admitted by the House of Lords, and to make
 further rules and regulations in regard to the proceedings at
 such elections :

[1.] At all future meetings of the peers of Scotland assembled under any royal proclamation for the election of a peer or peers to represent the peerage of Scotland in Parliament the Lord Clerk Register, or the clerks of session officiating thereat in his name, shall not call the titles of any peerages now standing on the said roll in right of which no vote shall have been received and counted since the year one thousand and eight hundred, nor shall it be lawful for the said Lord Clerk Register or clerks of session to administer the oaths to any person claiming to vote in right of any of the before-mentioned peerages, or to receive and count the vote of any such person, or to permit any such person to take part in the proceedings of any such election, until otherwise directed by order of the House of Lords.

At elections for Scotch peers, titles of peerages in respect of which no vote has been received since 1800 not to be called until otherwise directed by the House of Lords.

2. If any vote or claim to vote in respect of any title of peerage on the roll called over at any such meeting shall be disallowed by the said House, upon any proceeding had in trial of any contested election, the House of Lords may, if they shall think fit, order that such title of peerage shall not be called over at any future election ; and in the event of such order being

If claim to vote be disallowed by House of Lords, title of peerage not to be called over, &c. until

a claimant establishes his right.

made by the said House it shall not be lawful for the said Lord Clerk Register or clerk of session to call over the said title at any future election, or to administer the oaths to any person claiming to vote in respect of such title of peerage, or to receive or count the vote of any such person, or permit such person to take part in the proceedings of any such election, until such claimant or some other person shall have in due course established his right to such peerage.

Lord Clerk Register to transmit a copy of protests and proceedings to the House of Lords, &c. and order thereon.

3. If at any such meeting any person shall vote or claim to appear or to vote in respect of any title of peerage on the roll called over at such meeting, and a protest against such vote or claim shall be made by any two or more peers present whose votes shall be received and counted, the said Lord Clerk Register or clerks of session shall forthwith transmit to the clerk of the Parliaments a certified copy of the whole proceedings at such meeting; and the House of Lords, whether there shall be any case of contested election or not, may, in such manner, and with such notice to such parties, including the person so voting or claiming to appear or to vote in respect of such title of peerage and the persons protesting, as the said House shall think fit, inquire into the matter raised by such protest, and, if they shall see cause, order the person whose vote or claim has been so protested against to establish the same before the said House; and if such party shall not appear, or shall fail to establish his claim, the said House may, if they shall think fit, order as is herein-before provided in respect to votes disallowed upon any proceeding had in trial of any contested election.

When any peer has established a claim, the Lord Clerk Register shall not during the life of such peer admit the vote of any other claimant.

4. Whenever any peer or peeress shall have established his or her right to any peerage, or his right to vote in respect of any peerage, and the same shall have been notified to the Lord Clerk Register by order of the House of Lords, the said Lord Clerk Register or clerks of session shall not during the life of such peer or peeress allow any other person claiming to be entitled to the same peerage to take part in any such election, nor shall it be lawful for the said Lord Clerk Register or clerks of session to receive and count the vote of any such other person, till otherwise directed by the House of Lords.

Saving.

5. Provided always, that nothing in this Act contained shall affect the right of any person claiming or who may hereafter claim any peerage, or shall prevent the right of any person voting or claiming to vote or having voted or claimed to vote at any election being subject and liable to every objection to which the same would have been subject and liable before the passing of this Act.

CHAPTER LXL.

AN ACT to amend the Act for the Establishment of public Baths and Wash-houses.^[1] [2d July 1847.]

[*Preamble recites 9 & 10 Vict. c. 74.*]

[1.] The recited Act, as amended by this Act, and this Act Construction.
shall be construed and be carried into execution as one Act.

2. The following words and expressions in the recited Act Interpretation.
shall have in the said Act and this Act the several meanings hereby
assigned to them, unless there be something in the subject or
context repugnant to such construction; (that is to say,)

“Parish” shall mean not only every place having separate “Parish.”
overseers of the poor and separately maintaining its own
poor, but also every place maintaining its own poor and
having a vestry :

“Ratepayers ” shall mean all persons for the time being “Rate-
assessed to and paying rates for the relief of the poor of the payers.”
parish :

“ Vestry ” shall mean not only a vestry as defined in the said “ Vestry.”
Act, but also any body of persons, by whatever name dis-
tinguished, acting by virtue of any Act of Parliament,
prescription, custom, or otherwise, as or instead of a vestry
or select vestry.

3. [*Provision in case of commissioners of public baths and wash-houses appointed before the passing of this Act, rep. 38 & 39 Vict. c. 66. (S.L.R.)*] All acts and proceedings of any person in Acts of any
possession of the office of such commissioner, and acting in good person acting
faith as such commissioner, whether appointed before or after the as commis-
passing of this Act, shall, notwithstanding his disqualification sioner, &c. to
or want of qualification for or any defect or irregularity in or in be valid, not-
any way concerning his appointment to such office, be as valid withstanding
and effectual as if he were duly qualified, or there had not been disqualifica-
any such defect or irregularity. tion, &c.

4. The Lands Clauses Consolidation Act, 1845, shall be in- Incorporation
corporated with the recited Act and this Act: Provided always, of 8 & 9 Vict.
that the council and commissioners respectively shall not pur- c. 18. in part.
chase or take any lands otherwise than by agreement.

5. The number of washing tubs or troughs for the labouring Proportion
classes in any building or buildings under the management of of washing
the same council or commissioners shall not be less than twice the accommoda-
number of the washing tubs or troughs of any higher class, if but tion for
one, or of all the higher classes, if more than one, in the same labouring
building or buildings. classes.

[*S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

7. The council and the commissioners respectively may from Charges for
time to time make such reasonable charges for the use of the use of baths,
&c.

^[1] Short title, “The Baths and Wash-houses Act, 1847.” See 55 & 56 Vict.
c. 10.]

baths and wash-houses and open bathing places provided under the recited Act and this Act respectively as they think fit, not exceeding the charges mentioned in the schedule annexed to this Act.

[S. 8 rep. 38 & 39 *Vict. c. 66. (S.L.R.)*]

Sect. 7.

SCHEDULE to which this Act refers.

Charges for the Baths and Wash-houses and open Bathing Places.

1. Baths for the Labouring Classes.

Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather.

For one person above eight years old :

Cold bath, or cold shower bath, any sum not exceeding - - - - - One penny.

Warm bath, or warm shower bath, or vapour bath, any sum not exceeding - - - - - Two-pence.

For several children, not above eight years old, nor exceeding four, bathing together :

Cold bath, or cold shower bath, any sum not exceeding - - - - - Two-pence.

Warm bath, or warm shower bath, or vapour bath, any sum not exceeding - - - - - Four-pence.

2. Baths of any higher class.

Such charges as the council and the commissioners respectively think fit, not exceeding in any case three times the charges above mentioned for the several kinds of baths for the labouring classes.

3. Wash-houses for the Labouring Classes.

Every wash-house to be supplied with conveniences for washing and drying clothes and other articles.

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or, where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying :

For one hour only in any one day, any sum not exceeding - - - - - One penny.

For two hours together, in any one day, any sum not exceeding - - - - - Three-pence.

Any time over the hour or two hours respectively, if not exceeding five minutes, not to be reckoned.

For two hours not together, or for more than two hours in any one day, such charges as the council and the commissioners respectively think fit.

For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the council and the commissioners respectively think fit, but not exceeding in either case the charges for the use for the same time of both the washing and the drying conveniences.

4. Wash-houses of any higher class.

Such charges as the council and the commissioners respectively think fit.

5. Open bathing places, where several persons bathe in the same water, for one person [¹ one penny].

CHAPTER LXII.

AN ACT for the Establishment of Naval Prisons, and for the Prevention of Desertion from Her Majesty's Navy.^[2]

[2d July 1847.]

[*Preamble recites that it is expedient that the Admiralty should have power to establish and regulate naval prisons.*]

[*Ss. 1-8 rep. 23 & 24 Vict. c. 123. s. 86.*]

9. It shall be lawful for the constable of any place where any person reasonably suspected to belong to her Majesty's navy, and to be a deserter or improperly absent from his duty, shall be found, or of any adjoining place, and if no such constable can be immediately met with to secure him, then for any person in her Majesty's service, to apprehend or cause such suspected person to be apprehended, and cause him to be brought before any justice in the United Kingdom, or in any of her Majesty's dominions or territories, . . . in or near such place, who shall examine such suspected person; and if by his confession, or the testimony of one or more witness or witnesses upon oath, or by the knowledge of such justice, it shall appear that any person brought before him is a person belonging to her Majesty's navy improperly absent from his duty, such justice shall forthwith cause him to be conveyed to the nearest or most convenient public prison, and shall transmit an account thereof to the Secretary of the Admiralty, or to any commander-in-chief or officer commanding any one of her Majesty's ships or vessels, with a description of such person and the name of the ship or vessel to which he shall or may be suspected to belong, or if any such offender shall be apprehended by any person in her Majesty's service, or shall be apprehended in the vicinity of any one of her Majesty's ships or vessels in commission, then such justice shall order him to be taken on board any such ship or vessel, instead of committing him to prison; and in all cases the justice shall certify the name of the person by whom the offender was apprehended, and such last-mentioned person shall be entitled to a reward for such apprehension, according to the amount which is or may be established by the naval regulations or instructions for the time being in that behalf, or in case the apprehension shall be under circumstances for which no reward is or may be established, the amount of such reward shall be any sum in the

Apprehension, &c. of persons suspected to belong to the navy, and to be deserters, or improperly absent from duty.

[¹ Substituted for one half-penny by 41 & 42 Vict. c. 14. s. 14.]

[² Short title, "The Naval Deserters Act, 1847." See 55 & 56 Vict. c. 10.]

discretion of the Lord High Admiral, or the said [1] Commissioners, or of the officer commanding the vessel to which the deserter or person who shall have been improperly absent shall belong, not exceeding three pounds, and the reward shall in every case be paid and charged against the wages or pay of any such offender, and stopped out of the same; and for every such information, commitment, or order and account as aforesaid the clerk of the said justice may be entitled to a fee of two shillings and no more, and every gaoler and other person into whose custody any such offender is committed shall immediately upon the receipt of him pay such fee of two shillings, and also, upon the production of a receipt from the medical practitioner who may have been required to examine such suspected person, a fee of two shillings and sixpence, and such sums shall be repaid to such gaoler or other person, and the same, together with sixpence for every day the offender shall be in his custody, which shall be paid to such gaoler or other person, shall be charged against the pay or wages of the offender; and every gaoler or other person having the custody of any such offender shall deliver him up to any person authorized to take charge of him by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral, or by any naval commander-in-chief, or the officer commanding any one of her Majesty's ships or vessels, and any person so authorized shall convey him in safe custody on board any one of her Majesty's ships or vessels in commission.

Fraudulent
confession of
desertion, &c.
from navy.

10. Any person who shall voluntarily deliver himself up as and confess himself to be a deserter from any one of her Majesty's ships or vessels, or improperly absent from such ship or vessel, or who while serving in any of her Majesty's forces, or the embodied militia, . . . shall to any officer or non-commissioned officer thereof confess himself to be a deserter as aforesaid, or improperly absent as aforesaid, or who, upon being apprehended for any offence, shall in the presence of the justice confess himself to be a deserter, or improperly absent from his ship or vessel as aforesaid, and his statement shall not be true, he shall, if received into her Majesty's naval service, be deemed in her Majesty's navy, and be liable to serve and be detained therein as if he had voluntarily entered, or in case such person shall not be received into her Majesty's navy, he shall, on conviction thereof before two justices of the peace, at or near the place where he shall deliver himself up or confess, or where he may at any time happen to be, be adjudged to be punished, if in England, as a rogue and a vagabond, and if in Scotland or Ireland, by commitment to some prison or house of correction, there to be kept to hard labour for any time not exceeding three months.

[S. 11 *rep.* 29 & 30 *Vict. c.* 109. s. 85.]

Penalty on
governors of
prisons, &c.

12. Every governor, gaoler, and keeper of any prison, gaol, or house of correction, and every officer having the charge or com-

[i.e., the Commissioners for executing the office of Lord High Admiral.]

mand of any place, ship, or vessel for imprisonment, who shall refuse or neglect to receive or confine, remove, discharge, or deliver up any prisoner or offender as herein prescribed, shall forfeit for every such refusal or neglect the sum of one hundred pounds. for neglect of duty.

13. All penalties and forfeitures imposed by this Act shall and may be recovered, with costs, either by information or complaint, by summary proceedings before any justice or justices of the peace residing in or near to the place where the offence shall be committed, or where the offender shall at any time happen to be, and whether the offence be committed in or out of her Majesty's dominions, or within the jurisdiction of the Admiralty of England, or not; and if the sum imposed as a penalty by any such justice or justices shall not be paid either immediately after the conviction or within such reasonable time as such justice or justices shall at the time of the conviction appoint, it shall be lawful for the justice or justices to commit the offender or offenders to the common gaol or house of correction, there to be imprisoned ~~only, or to be imprisoned and kept to hard labour, according to the discretion of such justice or justices;~~ Recovery of penalties. S.L.R. 1954 and all penalties and forfeitures recoverable under this Act shall be paid and applied in manner following; (that is to say,) one moiety of such penalty shall be paid to the informer or complainant, and the residue thereof shall be paid to the Commissioners of Greenwich Hospital, anything in the Municipal Corporation Act, 1835, or in any other Act or Acts of Parliament 5 & 6 Will. 4. c. 76. to the contrary notwithstanding.

14. [1] Any justice or justices of the peace may summon any witness to appear and give evidence before him or them upon any matter cognizable under this Act, at a time and place appointed for hearing the information or complaint, and by warrant under his hand and seal, or their hands and seals, may require any person to be brought before him or them who shall neglect or refuse to appear to give evidence at the time or place appointed in such summons, proof upon oath being first given of personal service of the summons upon the person against whom such warrant shall be granted; and such justice or justices may commit any person coming or brought before him or them who shall refuse to give evidence to any common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding six calendar months, or until such person shall sooner submit himself to be examined, and in case of such submission the order of any such justice or justices shall be sufficient warrant for the discharge of such person. Attendance of witnesses.

[S. 15 rep. 55 & 56 Vict. c. 19. (S.L.R.)]

16. No conviction under this Act shall be quashed for want of form, or be removed by certiorari or otherwise into any of No certiorari, &c.

[1 S. 14 except so far as it relates to a proceeding under s. 9. rep. 55 & 56 Vict. c. 19. (S.L.R.)]

her Majesty's superior courts of record, and no warrant, commitment, or order for imprisonment shall be held void by reason of any defect therein, provided it be therein alleged that the person has been convicted or ordered to be imprisoned, and there be a good and valid conviction or an offence to sustain the same.

[S. 17 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXIII.

AN ACT for limiting the Time of Service in the Royal Marine Forces.^[1] [2d July 1847.]

[*Preamble.*]

No person to be enlisted as a marine for more than twelve years.

[1.] No person shall be enlisted to serve in the Royal Marine forces as a marine for a longer term than twelve years, to be reckoned from the day on which the recruit shall have been attested, if he shall have stated himself to be then of the age of eighteen years, or if not, then from the day on which he will complete the age of eighteen years, to be reckoned according to the age stated in his attestation.

[S. 2 *rep.* 44 & 45 *Vict. c.* 57. s. 54.]

Marines, six months before or on completion of term of limited service, may be re-engaged.

3. Any marine at any time during the last six months of the term of limited service for which he shall have first engaged, or after the completion of such term, may, if approved by his commanding officer or other competent authority as a fit person to continue in her Majesty's service as a marine, be re-engaged

Enlistment for further period of marines ordered on foreign service.

4. Provided that any marine who shall be ordered on foreign service, and who is within three years of the expiration of his first engagement, shall be at liberty, with the approbation of his commanding officer, to re-engage, before he embarks for such foreign service.

Prolongation of term while on foreign station.

5. Provided always, that if either the first or second term of limited service for which any marine shall have so engaged shall expire while he is serving on any foreign station, the said first or second term of limited service may be prolonged for such further time, not exceeding two years, as shall be directed by the commanding officer on such foreign station; and that any marine who shall give notice to his commanding officer, after completing his second term of limited service, that he is desirous of continuing in her Majesty's service as a marine, and being approved by his commanding officer or other competent authority, may be continued in such service as a marine so long as he shall desire to be so continued, and until the expiration of three calendar months after he shall have given notice to his commanding officer of his wish to be discharged, and for that

[¹ Short title, "The Royal Marines Act, 1847." See 55 & 56 *Vict. c.* 10.]

purpose shall be considered in all respects during such time as if his term of service were still unexpired.

6. Provided also, that if at the expiration of such first or second term of limited service, or of such term of prolonged service, any marine entitled to his discharge being on any foreign station shall not be willing to re-engage or to continue in her Majesty's service, his commanding officer shall, as in the case of marines invalidated, take the usual measures, with all convenient despatch, for the conveyance of such marine to England, and on the arrival of such marine in England he shall be finally discharged: Provided always, that during such time as may elapse between the expiration of such terms of service as aforesaid and his final discharge in England such marine shall remain subject to the same discipline, as fully as he may have been subject thereto before the expiration of such terms of service: Provided also, that if at the expiration of any such first or second term of limited service, or of such term of prolonged service, any marine being in any of her Majesty's colonies shall claim his discharge, and shall signify to the governor of such colony, through the commanding officer of such marine, his desire to remain in such colony, it shall be lawful for such governor, if he shall think fit, with the consent of such commanding officer, to permit such marine to remain therein, and thereupon such marine shall be finally discharged, and shall not be entitled to claim to be conveyed to England at the public charge at any future period.

Discharge while on foreign station.

7. If the term for which any non-commissioned officer or marine shall have been enlisted or re-engaged, or for which his term of service may have been prolonged as aforesaid, shall expire after any offence committed by him, and before he has been tried or punished for the same, such non-commissioned officer or marine shall, notwithstanding the expiration of his term of service, be deemed and taken to be still in the Royal Marine forces for the purpose of undergoing his trial and punishment, but for no other purpose: Provided always, that no non-commissioned officer or marine shall be so tried after the expiration of his service, except by a naval court-martial, or by a general or district or garrison court-martial, as the case may require.

Expiration of term during pendency of charge.

8. If any non-commissioned officer or marine shall have been absent from his duty during any portion of the time limited by his enlistment or re-engagement or prolongation of service, by reason of his imprisonment, whether under sentence of a court-martial or of any other court duly authorized to pass such sentence, or by reason of his confinement for debt, or by reason of his desertion, such portion of his time shall not be reckoned as a part of the limited service for which such non-commissioned officer or marine was enlisted or re-engaged, or for which his term of service may have been prolonged as aforesaid; and if

Provision in case of absence from duty by reason of imprisonment, &c.

any non-commissioned officer or marine shall have been absent from his duty during any portion of the time limited by his enlistment or re-engagement or prolongation of service, by reason of his having been made a prisoner of war, the circumstances under which he was so made a prisoner shall, on his rejoining her Majesty's service, be subjected to inquiry by a court-martial; and if it shall appear to the satisfaction of the court that he was taken prisoner through his own wilful neglect of his duty, or that he has or has not returned to his duty so soon as he could and ought to have returned, the court may by its sentence direct that all or any part of the time during which such non-commissioned officer or marine shall have been so absent may be deducted from his term of service.

[*Ss. 9, 10 rep. 38 & 39 Vict. c. 66. (S.L.R.). Schedules rep. 44 & 45 Vict. c. 57. s. 54.*]

CHAPTER LXV.

AN ACT for consolidating in One Act certain Provisions usually contained in Acts authorizing the making of Cemeteries.^[1]
[9th July 1847.]

[*Preamble.*]

Incorporation
with special
Act.

[1.] This Act shall extend only to such cemeteries as shall be authorized by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted in any such Act, shall apply to the cemetery authorized thereby, so far as they are applicable to such cemetery, and shall, with the clauses of every other Act incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretation.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

"The special
Act":

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorizing the making of a cemetery, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the lands" shall mean the lands which shall by the special Act be authorized to be taken or used for the purposes thereof; and the expression

"Prescribed":

"The lands":

[¹ Short title, "The Cemeteries Clauses Act, 1847." See s. 4.]

"the company" shall mean the person by the special Act authorized to construct the cemetery. "The company."

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number: Number:

Words importing the masculine gender shall include females: Gender:
The word "person" shall include a corporation, whether aggregate or sole: "Person":

The word "lands" shall include messuages, lands, and hereditaments, of any tenure: "Lands":

The expression "the cemetery" shall mean the cemetery or burial ground, and the works connected therewith, by the special Act authorized to be constructed: "The cemetery":

The word "month" shall mean calendar month: "Month":

The expression "superior courts" shall mean her Majesty's superior courts at Westminster or Dublin, as the case may require: "Superior courts":

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath: "Oath":

The expression "Established Church" shall mean the United Church of England and Ireland as by law established: "Established Church":

The word "county" shall include any riding or other division of a county having a separate commission of the peace, and shall also include the county of a city or county of a town: "County":

The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises, and if such matter arise in respect of lands situated not wholly in one jurisdiction shall mean a justice acting for the place where any part of such lands shall be situated; and where any matter is authorized or required to be done by "two justices," the expression "two justices" shall be understood to mean two or more justices met and acting together: "Justice":

The expression "quarter sessions" shall mean the quarter sessions as defined by the special Act; or if such expression be not therein defined it shall mean the general or quarter sessions of the peace which shall be held at the place nearest the cemetery for the county or place in which the cemetery or some part thereof is situated, or for some division of such county having a separate commission of the peace. "Quarter sessions":

*Interpretations
in this and the
special Act.*

Citing the Act. And with respect to citing this Act or any part thereof, be it enacted as follows :

Short title. 4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression, "The "Cemeteries Clauses Act, 1847."

Form in which portions of this Act may be incorporated in other Acts. 5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act ; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Making of cemetery. And with respect to the making of the cemetery, be it enacted as follows :

Taking of lands for purposes of special Act to be subject to this Act and the Lands Clauses Act.
8 & 9 Vict. c. 18.
6. Where by the special Act the company shall be empowered for the purpose of making the cemetery, to take or use any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act and the Lands Clauses Consolidation Act, 1845, and shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of the special Act, or injuriously affected by the construction of the works thereby authorized, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, or other parties, by reason of the exercise, as regards such lands, of the powers vested in the company by this or the special Act, or any Act incorporated therewith ; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the Lands Clauses Consolidation Act, 1845, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the last-mentioned Act shall be applicable to determine the amount of such compensation, and to enforce payment or other satisfaction thereof.

Correction of errors and omissions in special Act. 7. If any omission, mis-statement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described in the special Act or the schedule thereto, the company, after giving ten days' notice to the owners of the lands affected by such proposed correction, may apply to two justices for the correction thereof ; and if it appear to such justices that such omission, mis-statement, or wrong description arose from mistake, they shall certify the

same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate shall be deposited with the clerk of the peace of the county in which the lands affected thereby shall be situated, and thereupon the special Act or schedule shall be deemed to be corrected according to such certificate, and the company may take the lands according to such certificate, as if such omission, mis-statement, or wrong description had not been made.

8. Copies of any alteration or correction of the special Act, or the schedule thereto, or of any extract therefrom, certified by any such clerk of the peace in whose custody such alteration or correction may be, which certificate such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Certified copies of alterations, &c. to be evidence.

9. The company shall not sell or dispose of any land which shall have been consecrated or used for the burial of the dead, or make use of such land for any purpose except such as shall be authorized by this or the special Act, or any Act incorporated therewith.

Land used for burials not to be used for other than authorized purposes.

10. No part of the cemetery shall be constructed nearer to any dwelling house than the prescribed distance, or if no distance be prescribed, two hundred yards, except with the consent in writing of the owner, lessee, and occupier of such house.

Cemetery not to be within a certain distance of houses.

11. The company, upon any land which by the special Act they are authorized to use for the purposes of the cemetery, may build such chapels for the performance of the burial service as they think fit, and may lay out and embellish the grounds of the cemetery as they think fit.

Company may build chapels, and lay out their grounds.

12. The company, upon any land purchased by them under this or the special Act, or any Act incorporated therewith, may make any new roads to the cemetery, or widen or improve any existing roads thereto which they think fit.

Company may make or widen roads to cemetery.

13. Provided always, that the company shall not widen or improve any existing road without the consent of the owner thereof, if the road be private, or, if the road be public, without the consent of the persons in whom the management of the road is vested by law.

No road to be widened without consent.

14. The company and the owners or persons having the management of any such road as aforesaid may enter into such agreements as they think fit, for enabling the company to widen or improve any such road, and for maintaining the same.

Improvement of roads.

15. Every part of the cemetery shall be inclosed by walls or other sufficient fences of the prescribed materials and dimensions, and if no materials or dimensions be prescribed, by substantial walls or iron railings of the height of eight feet at least.

Cemetery to be inclosed and fenced.

Cemetery to
be kept in
repair.

16. The company shall keep the cemetery and the buildings and fences thereof in complete repair, and in good order and condition, out of the monies to be received by them by virtue of this and the special Act.

Compensat ion
for damage.

17. Provided always, that in the exercise of the powers by this and the special Act granted to the company they shall do as little damage as can be, and shall make full compensation to all parties interested for ail damage sustained by them through the exercise of such powers.

*Prevention of
nuisances.*

And with respect to preventing nuisance from the cemetery, be it enacted as follows:—

Power to make
sewers, drains,
&c. in and
about the
cemetery.

18. The company shall make all necessary and proper sewers and drains in and about the cemetery, for draining and keeping the same dry, and they may from time to time, as occasion requires, cause any such sewer or drain to open into any existing sewer, with the consent in writing of the persons having the management of such sewer, and with the consent in writing of the persons having the management of the street or road, and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Provisions of
10 & 11 Vict.
c. 17. incorpo-
rated with this
Act.

19. When any street or road or sewer shall be opened with such consent as aforesaid, the clauses of the Waterworks Clauses Act, 1847, with respect to breaking up streets for the purpose of laying pipes, so far as the same are consistent with this Act and applicable thereto, shall be incorporated with this Act, and shall apply to the company, and to any ground broken by them for making any such sewer or drain as aforesaid to open into any existing sewer.

Penalty on
company for
allowing water
to be fouled.

20. If the company at any time cause or suffer to be brought or to flow into any stream, canal, reservoir, aqueduct, pond, or watering place, any offensive matter from the cemetery, whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of fifty pounds.

By whom, how,
and within
what time, such
penalty may be
recovered.

21. The said penalty, with full costs of suit, may be recovered by any person having right to use the water fouled by such offensive matter, in any of the superior courts, by action of debt or on the case: Provided always, that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within six months after it has ceased.

Damages, or
a daily penalty
during the
continuance of
the offence
after notice,

22. In addition to the said penalty of fifty pounds, (and whether such penalty is recovered or not,) any person having right to use the water fouled by such offensive matter may sue the company, in an action on the case, in any court of competent jurisdiction, for any damage specially sustained by him by

reason of the water being so fouled; or if no special damage may be recovered. be alleged, for the sum of ten pounds for each day during which such offensive matter is brought or flows as aforesaid after the expiration of twenty-four hours from the time when notice of the offence is served on the company by such person.

And with respect to burials in the cemetery, be it enacted as follows: Burials.

23. The bishop of the diocese in which the cemetery is situated may, on the application of the company, consecrate any portion of the cemetery set apart for the burial of the dead according to the rites of the Established Church, if he be satisfied with the title of the company to such portion, and thinks fit to consecrate such portion; and the part which is so consecrated shall be used only for burials according to the rites of the Established Church. Part of cemetery may be set apart for burial according to rites of Established Church.

24. The company shall define by suitable marks the consecrated and unconsecrated portions of the cemetery. Consecrated and unconsecrated ground to be defined.

25. The company shall build, within the consecrated part of the cemetery, and according to a plan approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the Established Church. Chapel for Established Church service.

26. No body buried in the consecrated part of the cemetery shall be removed from its place of burial without the like authority as is by law required for the removal of any body buried in the churchyard belonging to a parish church. Removal of bodies from consecrated ground.

27. The company shall from time to time, with the approval of the bishop of the diocese in which the cemetery is situated, appoint a clerk in holy orders of the Established Church to officiate as chaplain in the consecrated part of the cemetery; and such chaplain shall be licensed by and be subject to the jurisdiction of the said bishop, and the said bishop shall have power to revoke any such licence, and to remove such chaplain, for any cause which appears to him reasonable. Appointment and licensing of chaplain.

28. The chaplain shall, when required, unless prevented by sickness or other reasonable cause, perform the burial service over all bodies brought to be buried in the consecrated part of the cemetery which are entitled to be buried in consecrated ground according to the rites and usage of the Established Church. Burial service over bodies entitled to burial in consecrated ground.

29. Any clerk in holy orders of the Established Church, not being prohibited by the bishop, nor under ecclesiastical censure, at the request of the executor of the will of any deceased person, or any other person having the charge of the burial of the body Other clergy-men of Established Church may

be allowed to officiate.

of any deceased person, and with the consent of the chaplain for the time being of the cemetery, or if there be no chaplain with the consent of the bishop, may perform the said burial service over such body in the consecrated part of the cemetery.

Company to pay the chaplain a stipend approved by the bishop.

30. The company, out of the monies to be received by virtue of this and the special Act, shall allow to the chaplain of the cemetery for the time being such a stipend as is approved of by the bishop of the diocese in which the cemetery is situated, which shall be payable by equal moieties, on the twenty-fifth day of March and the twenty-ninth day of September in each year; and if any chaplain die, resign, or be removed or appointed, in the interval between the half-yearly days of payment, the company shall pay to him, or his executors or administrators, a part only of the half-yearly payment of the stipend, proportioned to the time during which he shall have been the chaplain since the last preceding day of payment.

Stipend may be recovered by action at law.

31. If the stipend of the said chaplain, or any part thereof, be not paid to the chaplain entitled to receive the same, or to the executors or administrators of a deceased chaplain, for the space of thirty days next after any of the days of payment whereon the same ought to be paid, such chaplain, or his executors or administrators, may recover the same, with full costs of suit, against the company, by action of debt or upon the case in any court of competent jurisdiction.

Register of burials in the consecrated portion.

32. All burials in the consecrated part of the cemetery shall be registered in register books to be provided by the company, and kept for that purpose by the chaplain, according to the laws in force by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in England; and such register books, or copies or extracts therefrom, shall be received in all courts in evidence of such burials; and copies or transcripts thereof shall be from time to time sent to the registrar of the ecclesiastical court of the bishop of the diocese in which the cemetery is situated, to be kept with the copies of the other register books of the parishes within his diocese.

Registers to be subject to the regulations of 6 & 7 Will. 4. c. 86. as to searches, &c.

33. The said register books, so far as respects searches to be made therein, and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by the Births and Deaths Registration Act, 1836, so far as such regulations relate to register books of burials kept by any rector, vicar, or curate.

Appointment of clerk for consecrated part of the cemetery.

34. The company may, with the consent of the chaplain for the time being, from time to time appoint a clerk to assist in performing the service for burials in the consecrated part of the cemetery, and allow to such clerk such stipend as they think proper out of the monies to be received by virtue of this and

the special Act, and they may remove such clerk at their pleasure.

35. The company may set apart the whole or a portion of that part of the cemetery which is not set apart for burials according to the rites of the Established Church as a place of burial for the bodies of persons not being members of the Established Church, and may allow such bodies to be buried therein, under such regulations as the company appoint.

Burial of persons not members of Established Church.

36. The company may allow, in any chapel built within the unconsecrated part of the cemetery, a burial service to be performed according to the rites of any church or congregation other than the Established Church, by any minister of such other church or congregation duly authorized by law to officiate in such church or congregation, or recognized as such by the religious community or society to which he belongs.

Any burial service may be performed in chapels on unconsecrated part.

37. The company may appoint gravediggers and other servants necessary for the care and use of the cemetery, and may pay them such wages and allowances as they think fit out of the monies to be received by virtue of this and the special Act, and may remove them or any of them at their pleasure.

Power to appoint grave-diggers, &c.

38. The company shall make regulations for ensuring that all burials within the cemetery are conducted in a decent and solemn manner.

Regulations.

39. No body shall be buried in any vault under any chapel of the cemetery, or within fifteen feet of the outer wall of any such chapel.

No burials under or close to chapels.

And with respect to exclusive rights of burial, and monumental inscriptions, in the cemetery, be it enacted as follows :

Exclusive rights of burial.

40. The company may set apart such parts of the cemetery as they think fit for the purpose of granting exclusive rights of burial therein, and they may sell, either in perpetuity or for a limited time, and subject to such conditions as they think fit, the exclusive right of burial in any parts of the cemetery so set apart, or the right of one or more burials therein, and they may sell the right of placing any monument or gravestone in the cemetery, or any tablet or monumental inscription on the walls of any chapel or other building within the cemetery.

Parts of the cemetery set apart for grant of exclusive rights of burial.

41. The company shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all the parts of the cemetery so set apart, and in which an exclusive right of burial has been granted; and all such burial places shall be numbered, and such numbers shall be entered in a book to be kept for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of

Plan of parts set apart for grant of exclusive rights, and book of reference the: etc, to be kept.

burial has been granted by the company; and no place of burial, with exclusive right of burial therein, shall be made in the cemetery without the same being marked out in such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept by the clerk of the company.

Grant of exclusive right, &c. may be according to form in schedule.

42. The grant of the exclusive right of burial in any part of the cemetery, either in perpetuity or for a limited time, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, may be made in the form in the schedule to this Act annexed, or to the like effect, and where the company are not incorporated it may be executed by the company or any two or more of them.

Register of grants to be kept.

43. A register of all such grants shall be kept by the clerk to the company, and within fourteen days after the date of any such grant an entry or memorial of the date thereof and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant, so as the situation thereof may be ascertained, shall be made by the said clerk in such register; and such clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence, for every such entry or memorial; and the said register may be perused at all reasonable times by any grantee or assignee of any right conveyed in any such grant, upon payment of the prescribed sum, or if no sum be prescribed the sum of one shilling, to the clerk of the company.

Rights of burial may be assigned or bequeathed.

44. The exclusive right of burial in any such place of burial shall, whether granted in perpetuity or for a limited time, be considered as the personal estate of the grantee, and may be assigned in his lifetime or bequeathed by his will.

Form of assignments.

45. Every such assignment made in the lifetime of the assignor shall be by deed duly stamped, in which the consideration shall be duly set forth, and may be in the form in the schedule to this Act annexed, or to the like effect.

Assignments to be registered.

46. Every such assignment shall, within six months after the execution thereof, if executed in Great Britain or Ireland, or within six months after the arrival thereof in Great Britain or Ireland, if executed elsewhere, be produced to the clerk of the company, and an entry or memorial of such assignment shall be made in the register by the clerk of the company, in the same manner as that of the original grant; and until such entry or memorial, no right of burial shall be acquired under any such memorial; and for every such entry or memorial the clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence.

Probates of wills disposing

47. An entry or memorial of the probate of every will by which the exclusive right of burial within the cemetery is

bequeathed, and in case there be any specific disposition of such exclusive right of burial in the said will an entry of such disposition, shall, within six months after the probate of such will, be made in the said register, in the same manner as that of the original grant; and until such entry no right of exclusive burial shall be acquired under such will; and for every such entry or memorial the clerk of the company shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence.

of rights of burial to be registered.

48. No body shall be buried in any place wherein the exclusive right of burial shall have been granted by the company, except with the consent of the owner for the time being of such exclusive right of burial.

Burials in places where exclusive right has been granted.

49. No such grant as aforesaid shall give the right to bury within the consecrated part of the cemetery the body of any person not entitled to be buried in consecrated ground according to the rites and usage of the Established Church, or to place any monument, gravestone, tablet, or monumental inscription respecting any such body within the consecrated part of the cemetery.

No grant to give right in consecrated ground, &c. to persons not entitled to be buried according to rites of Established Church.

50. The company may take down and remove any gravestone, monument, tablet, or monumental inscription which shall have been placed within the cemetery without their authority.

Power to remove monuments erected without authority.

51. The bishop of the diocese in which the cemetery is situated, and all persons acting under his authority, shall have the same right and power to object to the placing, and to and procure the removal of any monumental inscription within the consecrated part of the cemetery as he by law has to object to or procure the removal of any monumental inscription in any church or chapel of the Established Church, or the burial ground belonging to such church or chapel, or any other consecrated ground.

Rights of bishop to object to monumental inscriptions in consecrated part of cemetery.

And with respect to payments to incumbents of parishes or ecclesiastical districts, and to parish clerks, be it enacted as follows:

Payments to incumbents of parishes.

52. The company shall, on the burial of every body within the consecrated part of the cemetery, pay to the incumbent for the time being of the parish or ecclesiastical district from which such body shall have been removed for burial, such sums, if any, as shall be prescribed for that purpose in the special Act.

Payments to incumbents of parishes from which bodies are brought.

53. For ascertaining the amount of the payments, if any, to be made to the incumbents of the several parishes or districts aforesaid, the company shall cause books to be kept, and entries to be made therein of the names of all persons whose bodies are buried within the consecrated part of the cemetery, and the

Accounts of interments in consecrated part of cemetery.

names of the parishes or districts from which such bodies respectively have been removed, and the manner of their burial within the cemetery, (distinguishing whether in a place of exclusive burial or otherwise,) with the date of such burial; and such books shall be at all reasonable times open to the inspection of the incumbents for the time being of the said several parishes or districts, or any person employed by them, without fee or reward.

Account of
payments due
to incumbents
of parishes.

54. The company shall on the twenty-fifth day of March and twenty-ninth day of September in each year, or within one month after each of the said days, deliver to the person who is the incumbent of any parish or ecclesiastical district on that day, or to his executors or administrators, on demand made within the said month, an account of the sums, if any, payable in respect of bodies removed for burial within the consecrated part of the cemetery as aforesaid from such parish or ecclesiastical district during the half year next preceding the said twenty-fifth day of March or twenty-ninth day of September, as the case may be.

Payments to
be made to
incumbents of
parishes half-
yearly.

55. The sums payable by virtue of the special Act shall be paid half-yearly on the twenty-fifth day of March and the twenty-ninth day of September, or within one month afterwards, to the persons who are the incumbents of the parishes or ecclesiastical districts in respect of which the same are payable on such twenty-fifth day of March and twenty-ninth day of September respectively, or the executors or administrators of such incumbents; (that is to say,) such sums as accrue between the twenty-ninth day of September and the twenty-fifth day of March following shall be paid to the person who is the incumbent on the twenty-fifth day of March, and such sums as accrue between the twenty-fifth day of March and the twenty-ninth day of September following shall be paid to the person who is the incumbent on the twenty-ninth day of September; and if any such sums be not paid to the party entitled to receive the same within the period herein-before limited for the payment thereof, such party may recover the same, with full costs, by action of debt or on the case, in any court having competent jurisdiction.

Apportioned
payments to
incumbent.

56. If any incumbent of any parish or district in respect of which sums are payable by the company by virtue of the special Act ceases to be incumbent, by cession, death, or otherwise, between the said two half-yearly days of payment, such incumbent shall be entitled to receive so much of the sum payable at the half-yearly day which happens next after he ceases to be incumbent as has accrued from the last preceding half-yearly day, or from the time when such incumbent became first entitled to receive the fruits of his living, as the case may require, up to the day at which he ceased to be incumbent, and the incumbent of any parish or district who receives from the company any sum

to a part of which any preceding incumbent is entitled under the provisions herein contained shall pay such part to him, his executors or administrators, accordingly; and the company shall not be answerable to any person, other than the actual incumbent, for the time being, for the payment of any sums by virtue of this or the special Act.

57. The company shall, on the burial of every body within the consecrated part of the cemetery, except where the body is buried at the expence of any parish or ecclesiastical district, or union of parishes for the relief of the poor, pay to the parish clerk of the parish or ecclesiastical district from which such body has been removed for burial, if he held the office of parish clerk of such parish or ecclesiastical district at the time of the passing of the special Act, but not otherwise, such sum, if any, as shall be prescribed for that purpose in the special Act.

Prescribed sum payable to parish clerk.

And with respect to the protection of the cemetery, be it enacted as follows:

Protection of cemetery.

58. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to the cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill therein or on any wall thereof, or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within the cemetery, or do any other wilful damage therein, shall forfeit to the company for every such offence a sum not exceeding five pounds.

Penalty for damaging the cemetery.

59. Every person who shall play at any game or sport, or discharge firearms, save at a military funeral, in the cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the cemetery, shall forfeit to the company for every such offence a sum not exceeding five pounds.

Disturbances and nuisances in cemetery.

60. And with respect to the accounts to be kept by the company, be it enacted, that the company shall every year cause an account to be prepared, showing the total receipt and expenditure of all monies levied by virtue of this or the special Act for the year ending on the thirty-first day of December, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, certified by the chairman of the company, and duly audited, and shall send a copy of the said account, free of charge, to the clerk of the peace for the county in which the cemetery is situated, on or before the expiration of one month from the day on which such accounts end, which last-mentioned account shall be open to the inspection of the public at all reasonable hours, on payment of the sum of one shilling for every such inspection; and if the company omit to prepare or send such account as

Annual accounts.

aforesaid, they shall forfeit for every such omission the sum of twenty pounds.

[S. 61 *rep.* 57 & 58 *Vict. c.* 56. (S.L.R.)]

*Recovery of
damages and
penalties.*

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows :

*Railways
(Clauses Con-
solidation Act.
8 & 9 *Vict.*
c. 30., incor-
porated as to
damages, &c.*

62. The clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act ; and such clauses shall apply to the cemetery and to the company respectively.

[S. 63 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

*Powers of
justices.*

64. All things herein or in the special Act, or any Act incorporated therewith, authorized or required to be done by two justices may and shall be done by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices.

False evidence.

65. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

*Access to
special Act.*

And with respect to affording access to the special Act, be it enacted as follows :

*Copies of
special Act to
be open to
inspection.*

66. The company shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace of the county in which the cemetery is situated a copy of such special Act, so printed as aforesaid ; and the said clerk of the peace shall receive, and he and the company respectively shall keep, the said copies of the special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposits Act, 1837.

7 Will. 4. &
1 Vict. c. 83.

*Penalty on
company
failing to keep
or deposit
such copies.*

67. If the company fail to keep or deposit any of the said copies of the special Act, as herein-before mentioned, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

68. Nothing herein contained shall be deemed to exempt the company from any general Act relating to burials in towns or populous places which may be passed in the same session of Parliament in which the special Act is passed, or any future session of Parliament. Saving as to future Acts.

[S. 69 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

SCHEDULES to which the foregoing Act refers.

Form of Grant of Right of Burial.

Sect. 42.

By virtue of [*here name the special Act*], we [*here state the name or description of the company*], in consideration of the sum of _____ to us paid by _____, of _____, do hereby grant unto the said _____ the exclusive right of burial [*or the right of burying bodies, as the case may be,*] [*or the right of placing a monument, tablet, or gravestone,*] in [*here describe the ground intended for the exclusive burial, or for placing a monument, tablet, or gravestone, as the case may be, so as to identify the same, and if a place of exclusive burial, add "numbered _____ on the plan of the cemetery, made in "pursuance of the said Act,"*] to hold the same to the said _____ in perpetuity [*or the period agreed upon*] for the purpose of burial [*or as the case may be*].

Given under our common seal, [*or under our hands and seals, as the case may be,*] this _____ day of _____ in the year of our Lord _____.

Form of Assignment of Right of Burial.

Sect. 45.

I, A.B., of _____, in consideration of the sum of _____ paid to me by C.D., of _____, do hereby assign unto the said C.D. the exclusive right of burial in [*here describe the place*], and numbered _____ on the plan of the cemetery made in pursuance of the said Act, which was granted to me [*or unto A.B. of _____*] in perpetuity [*or as the case may be*] by [*here state the name of the company*], by a deed of grant bearing date the _____ day of _____, and all my estate, title, and interest therein, to hold the same unto the said C.D. in perpetuity [*or, as the case may be, for the remainder of the period for which the same was granted by the said company*] subject to the conditions on which I held the same immediately before the execution hereof.

Witness my hand and seal, this _____ day of _____

CHAPTER LXVII.

AN ACT to amend the Law as to the Custody of Offenders.

[9th July 1847.]

[*Preamble recites 5 Geo. 4. c. 84.*]

Removal of
male offenders
convicted in
Ireland and
sentenced to
transportation
to places of
confinement
out of England.

[1.] It shall be lawful for one of her Majesty's Principal Secretaries of State to direct that any male offender convicted in Ireland, and being under sentence or order of transportation, may be removed to and confined and kept to labour in any such place of confinement out of England, in like manner as if he had been convicted in Great Britain; and every offender who shall be so removed shall continue in custody, and shall be kept to labour in the place of confinement to be so provided, or any other place of confinement to be from time to time provided by her Majesty out of England, until her Majesty shall otherwise direct, or until the offender shall be entitled to his liberty; and all the enactments of the said Act relating to the returns to be made concerning every person in custody in each of such places of confinement, and the powers and duties of the superintendent and overseer having the custody of any such offender, and to the treatment of such offenders while so confined, and the time during which they shall be so confined, shall, subject to the amendments made in the said Act by an Act passed in the last session of Parliament, intituled "An Act for abolishing the office of superintendent of convicts under sentence of transportation," [1] apply to all such male offenders convicted in Ireland and removed under the authority of this Act, as if they had been convicted in Great Britain and removed under the authority of the first-recited Act to such places of confinement.

9 & 10 Vict.
c. 26.

Offenders
under sentence
or order of
transportation
in Great
Britain may be
removed from
one prison to
another.

2. It shall be lawful for her Majesty, by an order in writing, to be notified in writing by one of her Majesty's Principal Secretaries of State, to direct that any persons under sentence or order of transportation within Great Britain shall be removed from the prisons in which they are severally confined to any other of her Majesty's prisons or penitentiaries in Great Britain, there to be confined for such time as her Majesty, by any such order, notified as aforesaid, shall direct, not exceeding the time for which they might have been lawfully confined in the prisons from which they shall have been severally removed; and the expence of maintaining any such person in the prison to which he shall be removed under this Act, and any other additional expence incurred in such prison by such removal and confinement, shall be defrayed in like manner as the expence of maintaining any such person in any place of confinement appointed under the first-recited Act.

Expence of
maintenance,
&c. of
prisoners re-
moved, how to
be defrayed.

[S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

[1] The Act 9 & 10 Vict. c. 26. is rep. 38 & 39 Vict. c. 66. (S.L.R.); see now 22 Vict. c. 25.]

CHAPTER LXIX.

AN ACT for the more effectual Taxation of Costs on Private Bills in the House of Commons.^[1] [22d July 1847.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.; L.R.)*]

2. No parliamentary agent or solicitor, nor any executor, administrator, or assignee of any parliamentary agent or solicitor, shall commence or maintain any action or suit for the recovery of any costs, charges, or expences in respect of any proceedings in the House of Commons in any future session of Parliament relating to any petition for a private bill, or private bill, or in respect of complying with the standing orders of the said House relative thereto, or in preparing, bringing in, and carrying the same through, or opposing the same in, the House of Commons, until the expiration of one month after such parliamentary agent or solicitor, or executor, administrator, or assignee of such parliamentary agent or solicitor, has delivered unto the party to be charged therewith, or sent by post to or left for him at his counting-house, office of business, dwelling house, or last known place of abode, a bill of such costs, charges, and expences, and which bill shall either be subscribed with the proper hand of such parliamentary agent or solicitor, or in the case of a partnership by any of the partners, either with his own name or with the name of such partnership, or of the executor, administrator, or assignee of such parliamentary agent or solicitor, or be enclosed in or accompanied by a letter subscribed in like manner referring to such bill: Provided always, that it shall not in any case be necessary, in the first instance, for such parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, in proving a compliance with this Act, to prove the contents of the bill delivered, sent, or left by him, but it shall be sufficient to prove that a bill of costs, charges, and expences, subscribed in manner aforesaid, or inclosed in or accompanied by such letter as aforesaid, was delivered, sent, or left, in manner aforesaid; but nevertheless it shall be competent for the other party to show that the bill so delivered, sent, or left was not such a bill as constituted a bonâ fide compliance with this Act: Provided also, that it shall be lawful for any judge of the superior courts of law or equity in England or Ireland, or of the Court of Session in Scotland, to authorize a parliamentary agent or solicitor to commence an action or suit for the recovery of his costs, charges, and expences against the party chargeable therewith, although one month has not expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said judge that there is probable cause for believing that such party is about to quit

Parliamentary agent, attorney, or solicitor, not to sue for costs in relation to any private bill in the House of Commons until one month after delivery of his bill.

Proof of delivery of bill sufficient, without proof of contents.

Judge may authorize action before expiration of one month.

[¹ Short title, "The House of Commons Costs Taxation Act, 1847." See s. 11.]

that part of the United Kingdom in which such judge hath jurisdiction.

Taxing officer to be appointed by the Speaker. 3. The Speaker of the House of Commons shall appoint a fit person to be the taxing officer of the House of Commons, and every person so appointed shall hold his office during the pleasure of the Speaker, and shall execute the duties of his office conformably to such directions as he may from time to time receive from the Speaker.

The Speaker to prepare list of charges henceforth to be allowed. 4. The Speaker may from time to time prepare a list of such charges as it shall appear to him that, after the present session of Parliament, parliamentary agents, solicitors, and others may justly make with reference to the several matters comprised in such list; and the several charges therein specified shall be the utmost charges thenceforth to be allowed upon the taxation of any such bill of costs, charges, and expences in respect of the several matters therein specified: Provided always, that the said taxing officer may allow all fair and reasonable costs, charges, and expences in respect of any matters not included in such list.

Taxing officer may examine parties and witnesses on oath, &c. 5. For the purpose of any such taxation the said taxing officer may examine upon oath any party to such taxation, and any witnesses who may be examined in relation thereto, and may receive affidavits, sworn before him or before any master or master extraordinary of the High Court of Chancery, relative to such costs, charges, or expences; and any person who on such examination on oath, or in any such affidavit, shall wilfully or corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Taxing officer may call for books and papers. 6. The said taxing officer shall be empowered to call for the production of any books or writings in the hands of any party to such taxation relating to the matters of such taxation: Provided always, that nothing herein contained shall be construed to authorize such taxing officer to determine the amount of fees which may have been payable to the House of Commons in respect of the proceedings upon any private bill.

Fees to be taken by taxing officer. 7. It shall be lawful for the said taxing officer to demand and receive for any such taxation such fees as the House of Commons may from time to time by any standing order authorize and direct, and to charge the said fees, and also to award costs of such taxation, against either party to such taxation, or in such proportion against each party as he may think fit, and he shall pay and apply the fees so received by him in such manner as shall be directed by any such standing order as aforesaid.

On application, taxing officer to tax the bill. 8. If any person upon whom any demand shall be made by any parliamentary agent or solicitor, or executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, for any costs, charges, or expences in respect of any proceedings in the House of Commons in any

future session of Parliament relating to any petition for a private bill, or private bill, or in respect of complying with the standing orders of the said House relative thereto, or in preparing, bringing in, or carrying the same through, or in opposing the same in, the House of Commons, or if any parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, who shall be aggrieved by the nonpayment of any costs, charges, and expences incurred or charged by him in respect of any such proceedings as aforesaid, shall make application to the said taxing officer at his office for the taxation of such costs, charges, and expences, the said taxing officer, on receiving a true copy of the bill of such costs, charges, and expences which shall have been duly delivered as aforesaid to the party charged therewith, shall in due course proceed to tax and settle the same; and upon every such taxation, if either the parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent, or solicitor, or other person, by whom such demand shall be made as aforesaid, or the party charged with such bill of costs, charges, and expences, having due notice, shall refuse or neglect to attend such taxation, the said taxing officer may proceed to tax and settle such bill and demand *ex parte*; and if pending such taxation any action or other proceeding shall be commenced for the recovery of such bill of costs, charges, and expences, the court or judge before whom the same shall be brought shall stay all proceedings thereon until the amount of such bill shall have been duly certified by the Speaker as herein-after provided: Provided always, that no such application shall be entertained by the said taxing officer if made by the party charged with such bill after a verdict shall have been obtained or a writ of inquiry executed in any action for the recovery of the demand of any such parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, or after the expiration of six months after such bill shall have been delivered, sent, or left as aforesaid: Provided also, that if any such application shall be made after the expiration of six months as aforesaid, it shall be lawful for the Speaker, if he shall so think fit, on receiving a report of special circumstances from the said taxing officer, to direct such bill to be taxed.

9. The said taxing officer shall, if required by either party report his taxation to the Speaker, and in such report shall state the amount fairly chargeable in respect of such costs, charges, and expences, together with the amount of costs and fees payable in respect of such taxation as aforesaid; and within twenty-one clear days after any such report shall have been made either party may deposit in the office of the said taxing officer a memorial, addressed to the Speaker, complaining of such report or any part thereof, and the Speaker may, if he shall so think

Taxing officer's report, and certificate of the Speaker.

fit, refer the same, together with such report, to the said taxing officer, and may require a further report in relation thereto, and on receiving such further report may direct the said taxing officer, if necessary, to amend his report; and if no such memorial be deposited as aforesaid, or so soon as the matters complained of in any such memorial shall have been finally disposed of, the Speaker shall, upon application made to him, deliver to the party concerned therein, and requiring the same, a certificate of the amount so ascertained, which certificate shall be binding and conclusive on the parties as to the matters comprised in such taxation, and as to the amount of such costs, charges, and expences, and of the costs and fees payable in respect of such taxation, in all proceedings at law or in equity or otherwise; and in any action or other proceeding brought for the recovery of the amount so certified such certificate shall have the effect of a warrant of attorney to confess judgment; and the court in which such action shall be commenced, or any judge thereof, shall, on production of such certificate, order judgment to be entered up for the sum specified in such certificate, in like manner as if the defendant in any such action had signed a warrant to confess judgment in such action to that amount: Provided always, that if such defendant shall have pleaded that he is not liable to the payment of such costs, charges, and expences, such certificate shall be conclusive only as to the amount thereof which shall be payable by such defendant in case the plaintiff shall in such action recover the same.

Construction
of certain
words in this
Act.

10. In the construction of this Act the word "month" shall be taken to mean a calendar month; and every word importing the singular number only shall extend and be applied to several persons, matters, or things, as well as one person, matter, or thing; and every word importing the plural number shall extend and be applied to one person, matter, or thing, as well as several persons, matters, or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "person" shall extend to any body politic, corporate, or collegiate municipal, civil, or ecclesiastical, aggregate or sole, as well as an individual; and the word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other person allowed by law to make a declaration instead of taking an oath; unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Short title.

11. In citing this Act in other Acts of Parliament, and in legal and other instruments, it shall be sufficient to use the expression "The House of Commons Costs Taxation Act, 1847."

[S. 12 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

CHAPTER LXXIX.

AN ACT to continue for a limited Time the Provisions for summary Proceedings contained in an Act of the last Session to amend the Acts for promoting the Drainage of Lands, and for other Purposes; and to amend the said Act.

[22d July 1847.]

[*Preamble recites 5 & 6 Vict. c. 89; 8 & 9 Vict. c. 69; 9 & 10 Vict. c. 4.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 2 rep. 55 & 56
Vict. c. 19. (S.L.R.)*]

3. [*Recital of 9 & 10 Vict. c. 4. s. 33, which provides that where for the purposes of navigation connected with drainage a free grant is made of a moiety or more of the expences of making or improving such navigation, and the residue of the expence is advanced by way of loan, such residue shall be charged on the district which by the declaration to be made by the commissioners therein mentioned shall be declared to be benefited by the making or improving such navigation.*]

Notwithstanding any thing in the herein-before recited Acts contained, in all cases where, for the purposes of navigation connected with drainage, a free grant of a moiety or more of the expences of making or improving any such navigation shall be or shall have been made by the authority of Parliament, and the other moiety or residue of the expence of making or improving such navigation shall be or shall have been raised or advanced by way of loan, under the aforesaid provisions, then such moiety or residue so raised or advanced shall, as by the last-recited Act provided, be charged upon the district therein mentioned, and the several baronies, half baronies, and townlands in such district, and shall be repaid by and levied from such baronies, half baronies, and townlands, as by the said Act provided, without any declaration of the justices and associated cess-payers, and without any presentment previously made by the grand jury of the county or any of the counties wherein such district as aforesaid shall be situate; and in all such cases all proceedings hitherto taken by or before the commissioners for the execution of the said Acts, under the said last-recited provision, and all loans, if any, made to them, and all securities given by them for the same, under such provision, shall be valid and effectual, notwithstanding any omission or defect as regards any such declaration or presentment as aforesaid.

Where under recited Acts a free grant is made of a moiety or more of the cost of any navigation, residue of cost raised by loan to be charged upon the district benefited.

4. The publication in the Dublin Gazette, as by the said recited Acts directed, of any final notice heretofore given or hereafter to be given under the provisions and for the purposes of the said recited Acts or this Act, or any of them, shall be deemed conclusive evidence of the due publication of such final notice.

Publication in Dublin Gazette of final notice.

Construction.

5. The said recited Acts and this Act shall be construed together as one Act, and the several words and expressions to which an extended signification is given in the said recited Acts, or any of them, shall have the like signification in this Act.

[S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.).]

CHAPTER LXXXIV.

AN ACT to make Provision for the Punishment of Vagrants and Persons offending against the Laws in force for the Relief of the destitute Poor in Ireland. [22d July 1847.]

[Preamble.]

[S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.).]

Punishment of persons neglecting to maintain their wives or children.

2. Every person who shall desert or wilfully neglect to maintain his wife or any child whom he may be liable to maintain, so that such wife or child shall become destitute and be relieved in or out of the workhouse of any union in Ireland, shall on conviction thereof before any justice of the peace be committed to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding three calendar months.

Punishment of persons wandering abroad, or begging in public places, &c.

3. Every person wandering abroad and begging, or placing himself in any public place, street, highway, court, or passage to beg or gather alms, or causing or procuring or encouraging any child or children so to do, and every person who, having been resident in any union in Ireland, shall go from such union to some other union, or from one electoral or relief district to another electoral or relief district in Ireland, for the purpose of obtaining relief in such last-mentioned union or district, shall on conviction thereof before any justice of the peace, if such justice shall think fit, be committed to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding one calendar month.

Power to apprehend persons offending against this Act.

4. It shall be lawful for any person whatsoever to apprehend any person whom he shall find offending against this Act, and to take and convey such offender as soon as may be reasonably practicable before any justice of the peace, to be dealt with as is herein-before provided, or to deliver him to any constable or other peace officer of the county or place wherein he shall have been apprehended, to be so taken and conveyed as aforesaid; and it shall be the duty of every constable or peace officer to take into his custody every such offender so delivered to him, and to take and convey such offender before a justice of the peace as soon as may be reasonably practicable, to be dealt with as is directed by this Act.

5. It shall be lawful for any justice of the peace, upon proof that any person hath committed any of the offences herein-before mentioned, to issue his warrant to apprehend such offender, and to bring him before the same or some other justice of the peace, to be dealt with as is directed by this Act.

Warrants for
apprehension
of offenders.

6. No proceeding by or before any justice of the peace under the provisions of this Act shall be quashed for want of form, or shall be removable into any of her Majesty's superior courts by writ of certiorari; . . .

Proceedings
not to be
quashed for
want of form,
&c.

[S. 7 rep. 55 & 56 Vict. c. 19. (S.L.R.)]

8. In the construction of this Act every word importing the singular number or masculine gender only shall, except where the context excludes such construction, be understood to include and shall be applied to several persons, matters, or things as well as one person, matter, or thing, and to females as well as males respectively; and the word "justice" shall be understood to include and extend to any justice of the peace or magistrate of a county, county of a city, or county of a town, or of any city or town corporate; and the word "constable" shall be understood to include all chief and other constables and sub-constables appointed under any Act relating to the constabulary force of Ireland, or for the regulation of the police district of Dublin.

Interpretation.

[S. 9 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER LXXXV.

AN ACT for giving further Facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office.^[1] [22d July 1847.]

[Preamble recites 3 & 4 Vict. c. 96.]

[Ss. 1, 6 rep. 38 & 39 Vict. c. 66. (S.L.R.) Ss. 2, 4 rep. 41 & 42 Vict. c. 79. (S.L.R.) Ss. 3, 5 rep. 54 & 55 Vict. c. 67. (S.L.R.)]

7. The privilege given to seamen and soldiers by the Post Office (Duties) Act, 1840, shall be enjoyed by such seamen and soldiers, whether any such letters shall be liable to any foreign postage or not, but subject to the payment of the foreign postage, if any be chargeable thereon.

Privileges of
seamen and
soldiers.
3 & 4 Vict.
c. 96.

[Ss. 8, 9 rep. 41 & 42 Vict. c. 79. (S.L.R.)]

[¹ Short title, "The Post Office (Duties) Act, 1847." See 55 & 56 Vict. c. 10. By 38 & 39 Vict. c. 22. s. 14. it is enacted, that so much of the Post Office Duties Acts, 1840 to 1871, or of any warrant or regulations made thereunder, as is inconsistent with that Act or with any warrant made under that Act, or as is expressed by any such warrant to be repealed, shall be repealed as from the date at which that Act or the warrant made under that Act, as the case may be, with which it is so inconsistent or by which it is expressed to be repealed, comes into operation.]

Letters sent contrary to the regulations of this or the recited Act may be detained, and opened, and returned or forwarded.

10. It shall be lawful for the Postmaster General and any officer of the Post Office to detain any letters which shall be posted or sent by the post contrary to the regulations of this Act or the said recited Act, or contrary to any regulations made under the authority of this Act or the said recited Act, or contrary to the regulations of any Treasury warrant which shall be issued under or by virtue of this Act, or which has been or shall be issued under or by virtue of the said recited Act, and to open such letters, and either to return them to the senders thereof, or to forward them to the places of their destination, charged in either case with such rates of postage as the Postmaster General, with the consent of the Treasury, shall from time to time direct.

[*S. 11 rep. 24 & 25 Vict. c. 101. (S.L.R.)*]

Power to compel senders to pay postage of rejected letters in certain cases.

12. [*Recital.*] In all cases in which the postage of any unstamped letter shall not have been paid by the sender thereof, and the party to whom such letter shall be addressed shall, upon receiving the same, and paying the postage thereof, be desirous to reject such letter, and to compel the sender thereof to pay such postage, it shall be lawful for the Postmaster General, upon the application of the party to whom any such letter shall be addressed, and under such regulations as the Postmaster General, with the consent of the Treasury, shall think fit, to charge the postage thereof to the sender of such letter, and also the additional postage of returning the same to him, and in every such case the sender of such letter shall pay the postage of sending and also of returning the same: Provided that nothing herein contained shall operate to release the party to whom any such letter shall be originally addressed from his liability to pay the postage thereof upon the delivery of such letter to him.

Post office stamps to be evidence of letters being rejected.

13. Upon any trial or hearing of any action or proceeding for the recovery of any postage the production of any letter in respect of which such postage shall be sought to be recovered, having thereupon a post office stamp denoting that such letter had been refused or rejected, or that the party to whom any such letter had been addressed was dead or could not be found, shall be *prima facie* evidence of the refusal or rejection of such letter, or that such person was dead or could not be found, according to the import and meaning of the said post office stamp thereupon.

In proceedings for postage the apparent writer to be deemed the sender of letter.

14. In any suit or other proceeding for the recovery of any postage payable under or by virtue of the Post Office laws the person from whom any letter in respect of which any postage shall be sought to be recovered shall purport to have come shall be deemed to be the sender thereof, and the onus shall lie upon the party proceeded against to prove that such letter did not come from and was not sent by him.

[*S. 15 rep. 41 & 42 Vict. c. 79. (S.L.R.)*]

16. [*Recital of 1 & 2 Vict. c. 98.*] It shall be lawful for the Postmaster General to require, in the manner prescribed by the said last-mentioned Act, that any mails and post letter bags shall be conveyed and forwarded by any railway company on their railway, under and pursuant to the said Act, notwithstanding any guard or other officer of the Post Office shall not be sent with the same or in charge thereof, and such mails and post letter bags shall be conveyed and forwarded by such railway company accordingly.

Mails, &c. may be sent by railway without a guard or other officer of the Post Office.

17. All monies paid to or received by the Post Office for rates or duties of postage under or by virtue of this Act, or for receipts for letters sent by the post, shall form part of the revenue of the Post Office.

Postage duties, &c. under this Act to be part of the Post Office revenue.

18. . . . whenever the order, consent, authority, or direction of the Treasury is prescribed by this Act, such order, consent, authority, or direction (not being by warrant) may be signified under the hand of one of their secretaries or assistant secretaries.

How Treasury orders, &c. may be signified.

19. Any printed copy of the London Gazette purporting to be printed and published by the person or persons having authority to print and publish the same shall be admitted as evidence by all courts, judges, justices, and others, in any part of her Majesty's dominions, of any Treasury warrant which shall be issued under or by virtue of this Act, or which has been or shall be issued under or by virtue of the Post Office (Duties) Act, 1840, or of the Post Office (Duties) Act, 1844, or either of them, and contained in any such Gazette, and of the due issuing thereof, and of the rates and regulations contained in any such warrant having been duly made and established, and of the other contents of any such warrant, without any further or other proof of such warrant.

London Gazette to be evidence of Treasury warrants.

3 & 4 Vict. c. 96.
7 & 2 Vict. c. 49.

20. This present Act shall be deemed and taken to be a Post Office Act; and the following terms and expressions, whenever used in this Act, or in any Treasury warrant issued under or by virtue thereof, shall have the several interpretations herein-after respectively set forth, unless such interpretations are repugnant to the subject matter or inconsistent with the context in which they may be found; (that is to say,) the term "by the post" shall include the conveyance by any post established under the authority or control of the Postmaster General; and the term "letter," as also the term "letters," used in this Act, shall be construed according to the interpretation of the term "letter" contained in the Post Office (Duties) Act, 1844; and the term "railway," used in this Act and in the Railways (Conveyance of Mails) Act, 1838, shall include every railway already constructed or hereafter to be constructed under the powers of any Act of Parliament; and whenever the term "railway company" or "company of proprietors" is used in this Act, or in the said last-mentioned Act, it shall be construed to extend to include the proprietors for the time being of

This Act to be a Post Office Act.

Interpretation of terms:

"By the post":

"Letter":

7 & 8 Vict. c. 49.

"Railway":

1 & 2 Vict. c. 98.

"Railway company":
"Company of proprietors."

3 & 4 Vict.
c. 96.

any such last-mentioned railway, and any lessees or tenants thereof; and the several other terms and expressions used in this Act shall be construed according to the respective interpretations contained or referred to in the Post Offices (Duties) Act, 1840, so far as those interpretations are not repugnant to the subject or inconsistent with the context of such terms and expressions.

[*Ss. 21, 22 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXXXIX.

AN ACT for consolidating in One Act certain Provisions usually contained in Acts for regulating the Police of Towns.^[1]
[22d July 1847.]

[*Preamble.*]

Incorporation
with special
Act.

[1.] This Act shall extend only to such towns or districts in England or Ireland as shall be comprised in any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the town or district which shall be comprised in such Act, and to the commissioners appointed for improving and regulating the same, so far as such clauses shall be applicable thereto respectively, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretation.

And with respect to the construction of this Act, whether incorporated in whole or in part with any other Act, and of any Act incorporated therewith, be it enacted as follows:

"The special
Act":

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed for the improvement or regulation of any town or district defined or comprised therein, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the commissioners" shall mean the commissioners, trustees, or other persons or body corporate intrusted by the special Act with powers for executing the purposes thereof.

"Prescribed":

"The commis-
sioners."

Interpretations
in this and the
special Act:

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the

[¹ Short title, "The Town Police Clauses Act, 1847." See s. 4.]

meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number shall include the plural Number: number, and words importing the plural number shall include the singular number:

Words importing the masculine gender shall include females: Gender:

The word "person" shall include a corporation, whether "Person": aggregate or sole:

The word "lands" shall include messuages, lands, tenements, "Lands": and hereditaments, of any tenure:

The word "street" shall extend to and include any road, square, "Street": court, alley, and thoroughfare, or public passage, within the limits of the special Act:

The word "month" shall mean calendar month: "Month":

The expression "superior courts" shall mean her Majesty's "Superior courts": superior courts of record at Westminster or Dublin, as the case may require . . .

The word "oath" shall include affirmation in the case of "Oath": Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

The word "county" shall include riding or other division of a "County": county having a separate commission of the peace, and shall also include county of a city or county of a town:

The word "justice" shall mean justice of the peace acting for "Justice": the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice arises; and where any matter shall be authorized or required to be done by two justices, the expression "two "Two justices": justices" shall be understood to mean two or more justices met and acting together:

The expression "quarter sessions" shall mean quarter sessions "Quarter sessions": as defined in the special Act, and if such expression be not there defined shall mean the general or quarter sessions of the peace which shall be held in or at the place nearest to the district comprised within the special Act for the county in which such district or some part thereof is situated, or for some division of such county having a separate commission of the peace.

The word "cattle" shall include horses, asses, mules, sheep, "Cattle": goats, and swine.

And with respect to citing this Act, or any part thereof, be it Citing the Act. enacted as follows:

4. In citing this Act in other Acts of Parliament, and in legal Short title of instruments, it shall be enough to use the expression, "The Town this Act.
"Police Clauses Act, 1847."

Form in which portions of this Act may be incorporated with other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Constables.

And with respect to the appointment, and the powers, duties, and privileges, of constables, be it enacted as follows:

Appointment of constables where no county police.
2 & 3 Vict.
c. 93.
3 & 4 Vict.
c. 88.

6. If any constables shall have been appointed within the limits of the special Act under the provisions of the County Police Act, 1839, and the County Police Act, 1840, and if the justices for the county in which such district is situated, in general or quarter sessions assembled, report to one of her Majesty's Principal Secretaries of State that the constables so appointed ought to be discontinued, and the said constables be, in pursuance thereof or otherwise, discontinued, or where no constables shall have been appointed under the provisions of the last-mentioned Act, the commissioners may from time to time appoint and employ a superintendent constable and also such number of constables as they judge necessary for the protection of the inhabitants and property within the said limits, and allow the superintendent constable and the other constables such salaries or wages as they think proper; and it shall be lawful for the commissioners from time to time to remove any such superintendent constable, constables, and officers, as they think fit.

Appointment of additional constables.

7. Where constables shall have been appointed under the last two recited Acts, or either of them, the commissioners, if they think it necessary so to do, may apply to the chief constable of the county in which the district within the said limits is situated, under the provisions of the last-recited Act, to appoint any additional number of constables within the said limits, and they may pay the charge of such appointments out of the rates to be levied under this and the special Act.

Constables to be sworn in, and to have powers, &c. of constables within limits of special Act, and five miles beyond.

8. Any justice may swear in any person appointed and employed as a constable under this and the special Act; and the constables so sworn in shall have, within the limits of the special Act, and in any place not more than five miles beyond such limits, the like powers, privileges, and duties, and shall have the same indemnities and protection, and shall be subject to the like penalties and forfeitures, as any constable duly appointed has or is subject to within his constablewick by law.

9. The commissioners may defray the expence of prosecuting any felons or offenders, and of defending any constable in the execution of his duty, and may make such allowances to any constable disabled in the execution of his duty, or worn out by length of service, as the commissioners think reasonable.

Expences of prosecutions, and allowances to constables.

10. No constable appointed under this or the special Act shall resign his office, or withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the commissioners or by the superintendent constable, or until after he has given to such superintendent constable one month's notice; and every constable who so resigns or withdraws himself without such leave or notice shall be liable to forfeit all arrears of pay then due to him, or to a penalty of not more than five pounds, or, in the discretion of the justices before whom he shall be convicted, may be committed to prison, there to remain for a time not exceeding fourteen days.

Constables not to resign without leave or notice.

11. Every constable appointed under this or the special Act who is dismissed from or ceases to hold and exercise his office shall forthwith deliver over to the superintendent constable, or to such person and at such time and place as the commissioners direct, all the clothing, accoutrements, appointments, and other necessities which have been supplied to him for the execution of his duty, under pain of imprisonment, with or without hard labour, for any time not exceeding one month; and any justice of the peace may issue his warrant to search for and seize to the use of the commissioners all the clothing, accoutrements, appointments, and other necessities not so delivered over, wherever the same are found.

Constables dismissed to deliver up accoutrements.

12. Every person who, not being at the time a constable appointed under this or the special Act, has in his possession any article being part of the clothing, accoutrements, or appointments supplied to any such constable, and who is not able satisfactorily to account for his possession thereof, or who puts on the dress or takes the name, designation, or character of any person appointed as such constable, for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which such person would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall, in addition to any other punishment to which he is liable for such offence, be liable to a penalty of not exceeding ten pounds.

Unlawful possession of accoutrements, or for assuming the dress of constables.

13. The commissioners may from time to time purchase or rent any buildings or land, and convert such buildings into or build on such land offices, watch-houses, lock-up houses, and other places necessary for the purposes of this and the special Act, with all proper conveniences thereto, and may repair the same from time to time, and furnish and fit up the same, and employ proper persons to take care thereof.

Power to provide offices, watch houses, &c.

Duties of
constables.

14. The constables appointed by virtue of this and the special Act shall keep watch and ward within the limits of the special Act, and shall use their best endeavours to prevent . . . all felonies, misdemeanors, and breaches of the peace.

Power to
constables and
persons
aggrieved to
apprehend
offenders.

15. Any person found committing any offence punishable either upon indictment or as a misdemeanor upon summary conviction by virtue of this or the special Act may be taken into custody, without a warrant, by any of the said constables, or may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or any person authorized by him, and may be detained until he can be delivered into the custody of a constable; and the persons so arrested shall be taken, as soon as conveniently may be, before some justice, to be examined and dealt with according to law: Provided always, that no person arrested under the powers of this or the special Act shall be detained in custody by any constable or other officer, without the order of some justice, longer than shall be necessary for bringing him before a justice, or than forty hours at the utmost.

Penalty on
constables for
neglect of duty

16. Every constable acting within the limits of the special Act who is guilty of any neglect or violation of his duty as a constable, and convicted thereof before two justices, shall be liable to a penalty not exceeding ten pounds, the amount of which penalty may be deducted from the salary or wages due to him or to become due to him, or, in the discretion of the justices before whom he is convicted, he may lawfully be imprisoned for any time not exceeding one month, with or without hard labour.

Power to super-
intend con-
stables, &c. to
take recogni-
zances.

17. Whenever any person charged with any offence under this or the special Act, or any Act incorporated therewith, not amounting to felony, and of which he is liable to be summarily convicted before a justice, is in the custody of any constable acting as aforesaid, without the warrant of a justice, the superintendent constable of the district, or appointed under this Act, or other the superior officer of police acting within the said limits, may, if he deem it prudent so to do, but in such cases only in which the offender cannot be conveniently taken before a justice, take the recognizance of such person with or without sureties, conditioned as herein-after mentioned.

Form of
recognizances.

18. Every recognizance so taken shall be taken without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a justice, at a certain day not later than seven days from the date of such recognizance, and the time and place of such appearance shall be specified in the recognizance.

Recognizances
to be registered
and returned
to the justices

19. The officer taking any such recognizance shall enter in a book to be kept for that purpose the name, residence, and occupation of the party and his sureties, if any, entering into such

recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the justice at the time and place when and where the party is bound to appear, and every such recognizance shall have the like force and effect as if the same had been taken before a justice.

20. Every person who assaults or resists, or who aids or incites any person to assault or resist, any constable in the execution of his duty under the provisions of this or the special Act shall for every such offence be liable to a penalty not exceeding five pounds, or, in the discretion of the justice before whom he is convicted, may be imprisoned for any term not exceeding one month, with or without hard labour.

Penalties on persons assaulting constables.

And with respect to obstructions and nuisances in the streets, be it enacted as follows:

Obstructions and nuisances.

21. The commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets, within the limits of the special Act, in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed, and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort; and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding forty shillings.

Power to make orders for preventing obstructions in the streets during public processions, &c.

22. On application to the commissioners by the minister or churchwardens or chapelwardens of any church, chapel, or other place of public worship within the limits of the special Act, the commissioners may make orders for regulating the route by which persons shall drive any cart or carriage, or cattle, or the manner in which they shall drive them, in the neighbourhood of such places of worship, during the hours of divine service on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving; and any orders so made shall be printed and put up on or near the church, chapel, or place of public worship to which the same refer, and in some conspicuous places near and leading thereto, and elsewhere as the commissioners direct; and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding forty shillings.

Power to regulate the route of persons driving stage carriages, &c. near places of worship during hours of divine service.

23. No proprietor of any stage carriage duly licensed to carry passengers for hire shall be liable to any penalty for any deviation from the route or line of route specified in his licence which the driver of such stage carriage makes in consequence of any regulation or direction made or given by the commissioners.

Power to stage carriages to deviate from route under order of commissioners.

Power to
impound stray
cattle.

24. If any cattle be at any time found at large in any street within the limits of the special Act, without any person having the charge thereof, any constable or officer of police, or any person residing within the limits of the special Act, may seize and impound such cattle in any common pound within the said limits, or in such other place as the commissioners appoint for that purpose, and may detain the same therein until the owner thereof pay to the commissioners a penalty not exceeding forty shillings, besides the reasonable expences of impounding and keeping such cattle.

Power to sell
cattle im-
pounded for
payment of
penalty and
expences, after
notice or
advertisement.

25. If the said penalty and expences be not paid within three days after such impounding, the pound-keeper or other person appointed by the commissioners for that purpose may proceed to sell or cause to be sold any such cattle; but previous to such sale seven days notice thereof shall be given to or left at the dwelling house or place of abode of the owner of such cattle, if he be known, or if not, then notice of such intended sale shall be given by advertisement, to be inserted seven days before such sale in some newspaper published or circulated within the limits of the special Act; and the money arising from such sale, after deducting the said sums, and the expences aforesaid, and all other expences attending the impounding, advertising, keeping, and sale of any such cattle so impounded, shall be paid to the commissioners, and shall be by them paid, on demand, to the owner of the cattle so sold.

Persons guilty
of pound-
breach to be
committed for
three months.

26. Every person who releases or attempts to release any cattle from any pound or place where the same are impounded under the authority of this or the special Act, or who pulls down, damages, or destroys the same pound or place, or any part thereof, with intent to procure the unlawful release of such cattle, shall, upon conviction of such offence before any two justices, be committed by them to some common gaol or house of correction for any time not exceeding three months.

Power to pro-
vide a pound.

27. The commissioners may purchase a piece of land within the limits of the special Act for the purpose of a pound for stray animals, and may erect a pound thereon, and such pound when made shall be kept in repair by the commissioners.

Penalty on
persons com-
mitting any of
the offences
herein named.

28. Every person who in any street, to the obstruction, annoyance, or danger of the residents or passengers, commits any of the following offences, shall be liable to a penalty not exceeding forty shillings for each offence, or, in the discretion of the justice before whom he is convicted, may be committed to prison, there to remain for a period not exceeding fourteen days; and any constable or other officer appointed by virtue of this or the special Act shall take into custody, without warrant, and forthwith convey before a justice, any person who within his view commits any such offence; (that is to say,)

Every person who exposes for show, hire, or sale (except in a market or market place or fair lawfully appointed for that

purpose) any horse or other animal, or exhibits in a caravan or otherwise any show or public entertainment, or shoes, bleeds, or farries any horse or animal (except in cases of accident), or cleans, dresses, exercises, trains, or breaks, or turns loose any horse or animal, or makes or repairs any part of any cart or carriage (except in cases of accident where repair on the spot is necessary) :

Every person who suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal :

Every owner of any dog who suffers such dog to go at large, knowing or having reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state :

Every person who after public notice given by any justice, directing dogs to be confined on account of suspicion of canine madness, suffers any dog to be at large during the time specified in such notice :

Every person who slaughters or dresses any cattle, or any part thereof, except in the case of any cattle over-driven which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot :

Every person having the care of any waggon, cart, or carriage who rides on the shafts thereof, or who without having reins, and holding the same, rides upon such waggon, cart, or carriage or on any animal drawing the same, or who is at such a distance from such waggon, cart, or carriage, as not to have due control over every animal drawing the same, or who does not, in meeting any other carriage, keep his waggon, cart, or carriage to the left or near side or who in passing any other carriage does not keep his waggon, cart, or carriage on the right or off side of the road, (except in cases of actual necessity, or some sufficient reason for deviation,) or who, by obstructing the street, wilfully prevents any person or carriage from passing him, or any waggon, cart, or carriage under his care :

Every person who at one time drives more than two carts or waggons, and every person driving two carts or waggons who has not the halter of the horse in the last cart or waggon securely fastened to the back of the first cart or waggon, or has such halter of a greater length from such fastening to the horse's head than four feet :

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle :

Every person who causes any public carriage, sledge, truck, or barrow, with or without horses, or any beast of burden, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers, (except hackney carriages, and horses and other beasts of draught or burthen, standing for hire in any place appointed

for that purpose by the commissioners or other lawful authority,) and every person who, by means of any cart, carriage, sledge, truck, or barrow, or any animal, or other means wilfully interrupts any public crossing, or wilfully causes any obstruction in any public footpath or other public thoroughfare :

Every person who causes any tree or timber or iron beam to be drawn in or upon any carriage, without having sufficient means of safely guiding the same :

Every person who leads or rides any horse or other animal, or draws or drives any cart or carriage, sledge, truck, or barrow, upon any footway of any street, or fastens any horse or other animal so that it stands across or upon any footway :

Every person who places or leaves any furniture, goods, wares, or merchandize, or any cask, tub, basket, pail, or bucket, or places or uses any standing-place, stool, bench, stall, or showboard, on any footway, or who places any blind, shade, covering, awning, or other projection over or along any such footway, unless such blind, shade, covering, awning, or other projection is eight feet in height at least in every part thereof from the ground :

Every person who places, hangs up, or otherwise exposes to sale any goods, wares, merchandize, matter, or thing whatsoever, so that the same project into or over any footway, or beyond the line of any house, shop, or building at which the same are so exposed, so as to obstruct or incommode the passage of any person over or along such footway :

Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, or log of wood, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway :

Every person who places any line, cord, or pole across any street, or hangs or places any clothes thereon :

Every common prostitute or nightwalker loitering and importuning passengers for the purpose of prostitution :

Every person who wilfully and indecently exposes his person :

Every person who publicly offers for sale or distribution, or exhibits to public view any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song or ballad, or uses any profane or obscene language :

Every person who wantonly discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework :

Every person who wilfully and wantonly disturbs any inhabitant, by pulling or ringing any door bell, or knocking at any door, or who wilfully and unlawfully extinguishes the light of any lamp :

Every person who flies any kite, or who makes or uses any slide upon ice or snow :

Every person who cleanses, hoops, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime :

Every person who throws or lays down any stones, coals, slate, shells, lime, bricks, timber, iron, or other materials (except building materials so inclosed as to prevent mischief to passengers) :

Every person who beats or shakes any carpet, rug, or mat (except door mats beaten or shaken before the hour of eight in the morning) :

Every person who fixes or places any flower-pot or box, or other heavy article, in any upper window, without sufficiently guarding the same against being blown down :

Every person who throws from the roof or any part of any house or other building any slate, brick, wood, rubbish, or other thing, except snow thrown so as not to fall on any passenger :

Every occupier of any house or other building, or other person, who orders or permits any person in his service to stand on the sill of any window, in order to clean, paint, or perform any other operation upon the outside of such window, or upon any house or other building within the said limits, unless such window be in the sunk or basement story :

Every person who leaves open any vault or cellar, or the entrance from any street to any cellar or room underground, without a sufficient fence or handrail, or leaves defective the door, window, or other covering of any vault or cellar, or who does not sufficiently fence any area, pit, or sewer left open, or who leaves such open area, pit, or sewer, without a sufficient light after sunset to warn and prevent persons from falling thereinto :

Every person who throws or lays any dirt, litter, or ashes, or nightsoil, or any carrion, fish, offal, or rubbish, on any street, or causes any offensive matter to run from any manufactory, brewery, slaughter-house, butcher's shop, or dunghill, into any street : Provided always, that it shall not be deemed an offence to lay sand or other materials in any street in time of frost, to prevent accidents, or litter or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things causes them to be removed as soon as the occasion for them ceases :

Every person who keeps any pigstye to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance.

29. Every person drunk in any street, and guilty of any riotous or indecent behaviour therein, and also every person

Penalty on drunken persons, &c. guilty

of riotous or indecent behaviour.

guilty of any violent or indecent behaviour in any police office or any police-station house, within the limits of the special Act, shall be liable to a penalty not exceeding forty shillings for every such offence, or, in the discretion of the justice before whom he is convicted, to imprisonment for a period not exceeding seven days.

Fires.

And with respect to fires, be it enacted as follows :

Penalty for wilfully setting chimneys on fire.

30. Every person who wilfully sets or causes to be set on fire any chimney within the limits of the special Act shall be liable to a penalty not exceeding five pounds: Provided always, that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted for felony.

Penalty for accidentally allowing chimneys to catch fire.

31. If any chimney accidentally catch or be on fire within the said limits, the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding ten shillings: Provided always, that such forfeiture shall not be incurred if such person prove to the satisfaction of the justice before whom the case is heard that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant.

Commissioners may provide fire engines and firemen.

32. The commissioners may purchase or provide such engines for extinguishing fire, and such water buckets, pipes, and other appurtenances for such engines, and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses for drawing such engines, as they think fit, and may build, provide, or hire places for keeping such engines with their appurtenances, and may employ a proper number of persons to act as firemen, and may make such rules for their regulation as they think proper, and give such firemen and other persons such salaries and such rewards for their exertions in cases of fire, as they think fit.

Commissioners may send engines and firemen beyond the limits of the special Act.

33. The commissioners may send such engines, with their appurtenances, and the said firemen, beyond the limits of the special Act, for extinguishing fire in the neighbourhood of the said limits; and the owner of the lands or buildings where such fire shall have happened shall in such case defray the actual expence which may be thereby incurred, and shall also pay to the commissioners a reasonable charge for the use of such engines with their appurtenances, and for the attendance of such firemen; and in case of any difference between the commissioners and the owner of the said lands or buildings, the amount of the said expences and charge, as well as the propriety of sending the said engines and firemen as aforesaid for extinguishing such fire, (if the propriety thereof be disputed,) shall be determined by two justices, whose decision shall be final; and the amount of the said expences and charge shall be recovered by the commissioners as damages.

And with respect to places of public resort, be it enacted as follows *Places of public resort.*

34. Every victualler or keeper of any public house, or person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors, by retail, to be drunk or consumed on the premises, within the limits of the special Act, who knowingly harbours or entertains or suffers to remain in his public house or place wherein he carries on his business any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall, for every such offence, be liable to a penalty not exceeding twenty shillings. *Penalty on victuallers, &c. harbouring constables while on duty.*

35. Every person keeping any house, shop, room, or other place of public resort, within the limits of the special Act, for the sale or consumption of refreshments of any kind, who knowingly suffers common prostitutes or reputed thieves to assemble at and continue in his premises shall, for every such offence, be liable to a penalty not exceeding five pounds. *Penalty on coffee shop keepers, &c. harbouring disorderly persons.*

36. Every person who within the limits of the special Act keeps or uses or acts in the management of any house, room, pit, or other place, for the purpose of fighting, baiting, or worrying any animals shall be liable to a penalty of not more than five pounds, or, in the discretion of the justices before whom he is convicted, to imprisonment, with or without hard labour, for a time not exceeding one month; and the commissioners may, by order in writing, authorize the superintendent constable, with such constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found shall be liable to a penalty not exceeding five shillings, and a conviction for this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penal consequence to which he is liable for the nuisance thereby occasioned. *Penalty on persons keeping places for bear-baiting, cock-fighting, &c.*

And with respect to hackney carriages, be it enacted as follows: *Hackney carriages.*

37. The commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers, (which in that case shall be deemed the prescribed distance,) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit. *Commissioners may license hackney carriages.*

38. Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and every carriage standing upon any street within the prescribed distance, having thereon *What vehicles to be deemed hackney carriages.*

any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act; and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe any such carriage: Provided always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act.

Proviso as to stage coaches.

Fee to be paid for licence.

39. For every such licence there shall be paid to the clerk of the commissioners, or other person appointed by them to receive the same, such sum as the commissioners direct, not exceeding five shillings.

Persons applying for licence to sign a requisition.

40. Before any such licence is granted a requisition for the same, in such form as the commissioners from time to time provide for that purpose, shall be made and signed by the proprietor or one of the proprietors of the hackney carriage in respect of which such licence is applied for; and in every such requisition shall be truly stated the name and surname and place of abode of the person applying for such licence, and of every proprietor or part proprietor of such carriage, or person concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of such carriage; and any person who, on applying for such licence, states in such requisition the name of any person who is not a proprietor or part proprietor of such carriage, or who is not concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, and also any person who wilfully omits to specify truly in such requisition as aforesaid the name of any person who is a proprietor or part proprietor of such carriage, or who is concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, shall be liable to a penalty not exceeding ten pounds.

Penalty for omissions, &c. in requisition.

What shall be specified in the licences.

41. In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such licence which shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other particulars as the commissioners think fit.

Licences to be registered.

42. Every licence shall be made out by the clerk of the commissioners, and duly entered in a book to be provided by him for that purpose; and in such book shall be contained columns or places for entries to be made of every offence committed by any proprietor or driver or person attending such carriage; and any

person may at any reasonable time inspect such book, without fee or reward.

43. Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners.

Licence to be in force for one year only.

44. So often as any person named in any such licence as the proprietor or one of the proprietors, or as being concerned, either solely or in partnership with any person, in the keeping, employing, or letting to hire of any such carriage, changes his place of abode, he shall, within seven days next after such change, give notice thereof in writing, signed by him, to the commissioners, specifying in such notice his new place of abode; and he shall at the same time produce such licence at the office of the commissioners, who shall by their clerk, or some other officer, endorse thereon and sign a memorandum specifying the particulars of such change; and any person named in any such licence as aforesaid as the proprietor, or one of the proprietors, of any hackney carriage, or as being concerned as aforesaid, who changes his place of abode and neglects or wilfully omits to give notice of such change, or to produce such licence in order that such memorandum as aforesaid may be endorsed thereon, within the time and in the manner limited and directed by this or the special Act, shall be liable to a penalty not exceeding forty shillings.

Notice to be given by proprietors of hackney carriages of any change of abode.

45. If the proprietor or part proprietor of any carriage, or any person so concerned as aforesaid, permits the same to be used as a hackney carriage plying for hire within the prescribed distance without having obtained a licence as aforesaid for such carriage, or during the time that such licence is suspended as herein-after provided, or if any person be found driving, standing, or plying for hire with any carriage within the prescribed distance for which such licence as aforesaid has not been previously obtained, or without having the number of such carriage corresponding with the number of the licence openly displayed on such carriage, every such person so offending shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty for plying for hire without a licence.

46. No person shall act as driver of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the commissioners, which licence shall be registered by the clerk to the commissioners, and a fee of one shilling shall be paid for the same; and every such licence shall be in force until the same is revoked, except during the time that the same may be suspended as after mentioned.

Drivers not to act without first obtaining a licence.

Penalty on drivers acting without licence, or proprietors employing unlicensed drivers.

47. If any person acts as such driver as aforesaid without having obtained such licence, or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended, as herein-after provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty not exceeding twenty shillings.

Proprietor to retain licences of drivers, and to produce the same before justices on complaint.

48. In every case in which the proprietor of any such hackney carriage permits or employs any licensed person to act as the driver thereof, such proprietor shall cause to be delivered to him, and shall retain in his possession, the licence of such driver, while such driver remains in his employ; and in all cases of complaint, where the proprietor of a hackney carriage is summoned to attend before a justice, or to produce the driver, the proprietor so summoned shall also produce the licence of such driver, if he be then in his employ; and if any driver complained of be adjudged guilty of the offence alleged against him, such justice shall make an endorsement upon the licence of such driver, stating the nature of the offence and the amount of the penalty inflicted; and if any such proprietor neglect to have delivered to him and to retain in his possession the licence of any driver while such driver remains in his employ, or if he refuse or neglect to produce such licence as aforesaid, such proprietor shall for every such offence be liable to a penalty not exceeding forty shillings.

Proprietor to return licence to drivers except in case of misconduct.

49. When any driver leaves the service of the proprietor by whom he is employed without having been guilty of any misconduct, such proprietor shall forthwith return to such driver the licence belonging to him; but if such driver have been guilty of any misconduct, the proprietor shall not return his licence, but shall give him notice of the complaint which he intends to prefer against him, and shall forthwith summon such driver to appear before any justice to answer the said complaint; and such justice, having the necessary parties before him, shall inquire into and determine the matter of complaint, and if upon inquiry it appear that the licence of such driver has been improperly withheld, such justice shall direct the immediate re-delivery of such licence, and award such sum of money as he thinks proper to be paid by such proprietor to such driver by way of compensation.

Revocation of licences of proprietors or drivers.

50. The commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special Act with respect to hackney carriages, or any byelaw made in pursuance thereof, suspend or revoke, as they deem right, the licence of any such proprietor or driver.

51. No hackney carriage shall be used or employed or let to hire, or shall stand or ply for hire, within the prescribed distance, unless the number of persons to be carried by such hackney carriage, in words at length, and in form following, (that is to say,) "To carry persons," be painted on a plate placed on some conspicuous place on the outside of such carriage, and in legible letters, so as to be clearly distinguishable from the colour of the ground whereon the same are painted, one inch in length, and of a proportionate breadth; and the driver of any such hackney carriage shall not be required to carry in or by such hackney carriage a greater number of persons than the number painted thereon.

Number of persons to be carried in a hackney carriage to be painted thereon.

52. If the proprietor of any hackney carriage permit the same to be used, employed, or let to hire, or if any person stand or ply for hire with such carriage, without having the number of persons to be carried thereby painted and exhibited in manner aforesaid, or if the driver of any such hackney carriage refuse, when required by the hirer thereof, to carry in or by such hackney carriage the number of persons painted thereon, or any less number, every proprietor or driver so offending shall be liable to a penalty not exceeding forty shillings.

Penalty for neglect to exhibit the number, or for refusal to carry the prescribed number.

53. A driver of a hackney carriage standing at any of the stands for hackney carriages appointed by the commissioners, or in any street, who refuses or neglects, without reasonable excuse, to drive such carriage to any place within the prescribed distance, or the distance to be appointed by any byelaw of the commissioners, not exceeding the prescribed distance, to which he is directed to drive by the person hiring or wishing to hire such carriage, shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty on driver for refusing to drive.

54. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree beforehand with any person hiring such hackney carriage to take for any job a sum less than the fare allowed by this or the special Act, or any byelaw made thereunder, such proprietor or driver shall be liable to a penalty not exceeding forty shillings if he exact or demand for such job more than the fare so agreed upon.

Penalty for demanding more than the sum agreed for.

55. No agreement whatever made with the driver, or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any byelaw made under this or the special Act, shall be binding on the person making the same; and any such person may, notwithstanding such agreement, refuse, on discharging such hackney carriage, to pay any sum beyond the fare allowed as aforesaid; and if any person actually pay to the driver of any such hackney carriage, whether in pursuance of any such agreement or otherwise, any sum exceeding the fare to which such driver was entitled, the person paying the same shall be entitled,

Agreement to pay more than the legal fare.

on complaint made against such driver before any justice of the peace, to recover back the sum paid beyond the proper fare, and moreover such driver shall be liable to a penalty for such exactation not exceeding the sum of forty shillings; and in default of the repayment by such driver of such excess of fare, or of payment of the said penalty, such justice shall forthwith commit such driver to prison, there to remain for any time not exceeding one month, unless the said excess of fare and the said penalty be sooner paid.

Agreements
to carry
passengers a
discretionary
distance for a
fixed sum.

56. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree with any person to carry in or by such hackney carriage persons not exceeding in number the number so painted on such carriage as aforesaid, for a distance to be in the discretion of such proprietor or driver, and for a sum agreed upon, such proprietor or driver shall be liable to a penalty not exceeding forty shillings if the distance which he carries such persons be under that to which they were entitled to be carried for the sum so agreed upon, according to the fare allowed by this or the special Act, or any byelaw made in pursuance thereof.

Deposit to be
made for car-
riages required
to wait.

57. When any hackney carriage is hired and taken to any place, and the driver thereof is required by the hirer there to wait with such hackney carriage, such driver may demand and receive from such hirer his fare for driving to such place, and also a sum equal to the fare of such carriage for the period, as a deposit over and above such fare, during which he is required to wait as aforesaid, or if no fare for time be fixed by the byelaws, then the sum of one shilling and sixpence for every half hour during which he is so required to wait, which deposit shall be accounted for by such driver when such hackney carriage is finally discharged by such hirer; and if any such driver who has received any such deposit as aforesaid refuses to wait as aforesaid, or goes away or permits such hackney carriage to be driven or taken away without the consent of such hirer, before the expiration of the time for which such deposit was made, or if such driver on the final discharge of such hackney carriage refuse duly to account for such deposit, every such driver so offending shall be liable to a penalty not exceeding forty shillings.

Penalty on
proprietors, &c.
convicted of
overcharging.

58. Every proprietor or driver of any such hackney carriage who is convicted of taking as a fare a greater sum than is authorized by any byelaw made under this or the special Act shall be liable to a penalty not exceeding forty shillings, and such penalty may be recovered before one justice; and in the conviction of such proprietor or driver an order may be included for payment of the sum so overcharged, over and above the penalty and costs; and such overcharge shall be returned to the party aggrieved, . . .

59. Any proprietor or driver of any such hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding twenty shillings.

Penalty for permitting persons to ride without consent of hirer.

60. No person authorized by the proprietor of any hackney carriage to act as driver of such carriage shall suffer any other person to act as driver of such carriage without the consent of the proprietor thereof; and no person, whether licensed or not, shall act as driver of any such carriage without the consent of the proprietor; and any person so suffering another person to act as driver, and any person so acting as driver without such consent as aforesaid, shall be liable to a penalty not exceeding forty shillings for every such offence.

No unauthorized person to act as driver.

61. If the driver or any other person having or pretending to have the care of any such hackney carriage be intoxicated while driving, or if any such driver or other person by wanton and furious driving, or by any other wilful misconduct, injure or endanger any person in his life, limbs, or property, he shall be liable to a penalty not exceeding five pounds; and in default of payment thereof the justice before whom he is convicted of such offence may commit him to prison, there to remain for any time not exceeding two months.

Penalty on drivers for drunkenness, furious driving, &c.

62. If the driver of any such hackney carriage leave it in any street or at any place of public resort or entertainment, whether it be hired or not, without some one proper to take care of it, any constable may drive away such hackney carriage and deposit it, and the horse or horses harnessed thereto, at some neighbouring livery stable or other place of safe custody; and such driver shall be liable to a penalty not exceeding twenty shillings for such offence; and in default of payment of the said penalty upon conviction, and of the expences of taking and keeping the said hackney carriage and horse or horses, the same, together with the harness belonging thereto, or any of them, shall be sold by order of the justice before whom such conviction is made, and after deducting from the produce of such sale the amount of the said penalty, and of all costs and expences, as well of the proceedings before such justice as of the taking, keeping, and sale of the said hackney carriage, and of the said horse or horses and harness, the surplus (if any) of the said produce shall be paid to the proprietor of such hackney carriage.

Penalties in case of carriages being unattended at places of public resort.

63. In every case in which any hurt or damage has been caused to any person or property as aforesaid by the driver of any carriage let to hire, the justice before whom such driver has been convicted may direct that the proprietor of such carriage shall pay such a sum, not exceeding five pounds, as appears to the justice a reasonable compensation for such hurt or damage; and every proprietor who pays any such compensation as aforesaid may recover the same from the driver, and such

Compensation for damage done by driver.

compensation shall be recoverable from such proprietor, and by him from such driver, as damages.

Penalty on drivers obstructing other drivers.

64. Any driver of any hackney carriage who suffers the same to stand for hire across any street or alongside of any other hackney carriage, or who refuses to give way, if he conveniently can, to any other carriage, or who obstructs or hinders the driver of any other carriage in taking up or setting down any person into or from such other carriage, or who wrongfully in a forcible manner prevents or endeavours to prevent the driver of any other hackney carriage from being hired, shall be liable to a penalty not exceeding twenty shillings.

Compensation to drivers attending to answer complaints not substantiated.

65. If the driver of any such hackney carriage be summoned or brought before any justice to answer any complaint or information touching or concerning any offence alleged to have been committed by such driver against the provisions of this or the special Act, or any byelaw made thereunder, and such complaint or information be afterwards withdrawn or quashed or dismissed, or if such driver be acquitted of the offence charged against him, the said justice, if he think fit, may order the complainant or informant to pay to the said driver such compensation for his loss of time in attending the said justice touching or concerning such complaint or information as to the said justice seems reasonable; and in default of payment of such compensation the said justice may commit such complainant or informant to prison for any time not exceeding one month, unless the same shall be sooner paid.

Fare unpaid may be recovered as a penalty.

66. If any person refuse to pay on demand to any proprietor or driver of any hackney carriage the fare allowed by this or the special Act, or any byelaw made thereunder, such fare may, together with costs, be recovered before one justice as a penalty.

Penalty and compensation for damaging carriage.

67. Any person using any hackney carriage plying under a licence granted by virtue of this or the special Act, who wilfully injures the same, shall for every such offence be liable to a penalty not exceeding five pounds, and shall also pay to the proprietor of such hackney carriage reasonable satisfaction for the damage sustained by the same; and such satisfaction shall be ascertained by the justices before whom the conviction takes place, and shall be recovered by the same means as the penalty.

Byelaws for regulating hackney carriages.

68. The commissioners may from time to time (subject to the restrictions of this and the special Act) make byelaws for all or any of the purposes following; (that is to say),

For regulating the conduct of the proprietors and drivers of hackney carriages plying within the prescribed distance in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling;

For regulating the manner in which the number of each carriage, corresponding with the number of its licence, shall be displayed :

For regulating the number of persons to be carried by such hackney carriages, and in what manner such number is to be shown on such carriage, and what number of horses or other animals is to draw the same, and the placing of check strings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided :

For fixing the stands of such hackney carriages, and the distance to which they may be compelled to take passengers, not exceeding the prescribed distance :

For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the prescribed distance, and for securing the due publication of such fares :

For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

And with respect to public bathing, be it enacted as follows :

Bathing.

69. Where any part of the sea-shore or strand of any river used as a public bathing-place is within the limits of the special Act, the commissioners may make byelaws for the following purposes ; (that is to say,) Byelaws for regulating public bathing-places.

For fixing the stands of bathing machines on the sea-shore or strand, and the limits within which persons of each sex shall be set down for bathing, and within which persons shall bathe :

For preventing any indecent exposure of the persons of the bathers :

For regulating the manner in which the bathing machines shall be used, and the charges to be made for the same :

For regulating the distance at which boats and vessels let to hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within the prescribed limits.

70. And with respect to the rates to be made for carrying the purposes of this and the special Act into execution, be it enacted, that all the clauses of the Towns Improvement Clauses Act, 1847, with respect to the following matters ; (that is to say,)

Rates.

Provisions of 10 & 11 Vict. c. 34., as to rates, incorporated.

With respect to the manner of making rates authorized by that or the special Act ;

With respect to the appeal to be made against any rate ; and

With respect to the recovery of rates ;
shall be incorporated with this and the special Act.

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Byelaws.

71. And with respect to byelaws, be it enacted, that all the clauses of the Towns Improvement Clauses Act, 1847, with respect to the byelaws to be made by virtue of that or the special Act, shall be incorporated with this and the special Act.

Provisions of 10 & 11 Vict. c. 34., as to byelaws, incorporated.

*Recovery of
damages and
penalties.*

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows :

Recovery of
damages and
penalties.
8 & 9 Vict.
c. 20.

73. The clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act ; and such clauses shall apply to the town or district within the limits of the special Act, and to the commissioners, and shall be construed as if the word "commissioners" had been inserted therein instead of the word "company."

[S. 74 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Acts which
may be done
by one magis-
trate.

75. All things herein or in the special Act, or any Act incorporated herewith, authorized or required to be done by two justices may and shall be done by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices.

Persons giving
false evidence
liable to pen-
alties of perjury.

76. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

*Access to
special Act.*

And with respect to affording access to the special Act, be it enacted as follows :

Copies of
special Act.

77. The commissioners shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace of the county in which the town or district within the limits of the special Act is situated a copy of such special Act so printed as aforesaid ; and the said clerk of the peace shall receive, and he and the commissioners respectively shall retain, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make copies or extracts therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837.

7 Will. 4. &
1 Vict. c. 83.

Penalty on
commissioners
failing to keep
or deposit such
copies.

78. If the commissioners fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy is not so kept or deposited.

[S. 79 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XC.

AN ACT to provide for the Execution of the Laws for Relief of the Poor in Ireland.[¹]

[22d July 1847.]

[*Preamble recites 1 & 2 Vict. c. 56 ; 6 & 7 Vict. c. 92.*]

[*Ss. 1-6 rep. 38 & 39 Vict. c. 66 (S.L.R.). S. 1 provided for appointment of "Commissioners for administering the Laws for the Relief of the Poor in Ireland," in this Act referred to as "the Commissioners." S. 5 provided for appointment of inspectors. S. 6 provided that the commissioners should appoint one of such inspectors, by the title of Assistant Commissioner, to assist in the business of their office.*]

7. The said inspectors and each of them shall be entitled to attend every board of guardians and every parochial and other local meeting held for the relief of the poor, and to take part in the proceedings, but not to vote at such board or meeting.

Inspectors may attend boards of guardians and local meetings.

[*S. 8 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

9. On the day on which the commissioners shall enter on their office all the powers and duties of the Poor Law Commissioners, or any of them, with respect to the direction or control of the administration of relief to the poor throughout Ireland, shall be transferred to and vested in the commissioners, and shall be thenceforth exercised by them, or any two of them, or, except as is herein-after provided, by the chief commissioner alone, or in his absence by the assistant commissioner, and all provisions of the several Acts in any way relating to the administration of relief to the poor in Ireland shall be construed as if therein the commissioners had been named instead of the Poor Law Commissioners, subject nevertheless to any amendments made by this Act; and during any vacancy among the commissioners the surviving or continuing commissioners or commissioner may continue to act with the same powers and in the same manner respectively as before such vacancy: . . .

Transfer to commissioners of the powers and duties of the Poor Law Commissioners

10. . . . all lands, tenements, and hereditaments, and real and personal property, vested in the said Poor Law Commissioners on the day on which the commissioners shall enter on their office, shall vest in the commissioners and their successors, without any conveyance or transfer thereof other than by the operation of this Act.

Transfer to commissioners of property vested in Poor Law Commissioners.

11. The power vested in the Poor Law Commissioners to make rules, orders, and regulations, and to vary or rescind the same, shall and may be exercised by the commissioners, who shall make all such rules, orders, and regulations under their seal, except such as are intended only for their own guidance and procedure, or for the guidance or procedure of the said

Power to commissioners to make rules, orders, and regulations.

[¹ Short title, "The Poor Relief (Ireland) Act, 1847." See 55 & 56 Vict. c. 10.]

inspectors or any of them, and the conduct of the business in their office.

General rules, to be approved by the Lord Lieutenant.

12. No general rule made by the commissioners relating to the administration of the laws for the relief of the poor in Ire and shall have any force unless the same shall be made under the seal of the commissioners, nor unless the same, before the issue thereof, shall be approved by the Lord Lieutenant; and no rule to vary or rescind a general rule shall be made by the commissioners unless the same shall be made and approved in like manner.

[S. 13 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

General rules disallowed by Lord Lieutenant to cease to be of any force.

14. If the Lord Lieutenant in council shall at any time disallow any such general rule or any part thereof, the same, so far as it shall have been so disallowed, shall cease to be of any force or validity, subject, however, and without prejudice to all things lawfully done under the same before such disallowance.

What shall be deemed general rules.

15. Every rule, order, or regulation of the commissioners which shall be at the time of issuing the same directed to and affect more than one union shall be deemed a general rule; and every rule, order, and regulation made to vary or rescind a general rule, whether or not directed to or affecting more than one union, shall also be deemed a general rule.

Rules of Poor Law Commissioners to continue in force until rescinded, &c.

16. Provided always, that all lawful rules, orders, and regulations of the Poor Law Commissioners, made before the day on which the commissioners first appointed under this Act shall enter on their office, shall continue in full force and effect until rescinded or varied under the authority of this Act.

Sanction of commissioners substituted for that of the Poor Law Commissioners.

17. In every case when the assent or sanction of the Poor Law Commissioners, or any one or more of them, is now required for any matter arising in Ireland, to be given under their hands and seals, or the hand and seal of any one or more of them, the assent or sanction of the commissioners shall be requisite instead thereof, and in every case in which it shall be given shall be given under the seal of the commissioners, and shall have the like force and effect in Ireland as the assent or sanction of the Poor Law Commissioners before the passing of this Act.

[S. 18 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Power to summon witnesses.

19. The commissioners, or any one of them, and also any such inspector, acting in execution of the Acts now or hereafter to be in force for the relief of the poor in Ireland, by summons under the seal of the commissioners, or under the separate hand and seal of any commissioner or inspector respectively, as the case may be, may require the attendance of all such persons as they or he shall think fit to call before them or any of them respectively upon any matter connected with the execution of this Act, or the administration of the laws for the relief of the poor in Ireland, at such time and place as shall be set forth in

the summons, and may make inquiry and require returns, and may administer oaths, and examine all such persons upon oath, and may require and enforce the production upon oath of books, contracts, agreements, accounts, maps, plans, surveys, valuations, and writings, or copies thereof respectively, in anywise relating to any such matter, or when the commissioners, or any one of the commissioners, or any inspector, shall think fit, instead of requiring such oath as aforesaid, may require any such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined: Provided always, that no person shall be required, in obedience to any such summons, to go more than twenty statute miles from the place of his abode; provided also, that nothing herein contained shall empower the commissioners, or any commissioner or inspector, to require the production of the title, or of any papers or deeds relating to the title, of any lands, tenements, or hereditaments, not being property vested in the commissioners by this Act.

20. Every person who upon any examination under the authority of this Act shall wilfully give false evidence, or wilfully make or subscribe a false declaration, shall on being convicted thereof suffer the pains and penalties of perjury; and every person who shall refuse or wilfully neglect to attend in obedience to any summons of the commissioners, or of any one of the commissioners or any inspector, or to give evidence, or who shall wilfully alter suppress, conceal, destroy, or refuse to produce any books, contracts, agreements, accounts, maps, plans, surveys, valuations, or writings, or copies of the same, which may be required to be produced for the purposes of this Act, to any person authorized by this Act to require the production thereof, shall be deemed guilty of a misdemeanor.

Penalties for giving false evidence, or refusing to give evidence, &c.

21. [The commissioners shall once in each year submit to the Lord Lieutenant a general report of their proceedings]; and every such general report shall be laid before both Houses of Parliament within six weeks after the date thereof, if Parliament be then sitting, or, if Parliament be not then sitting, within six weeks after the next meeting of Parliament; and every such report shall contain a distinct statement of every order and direction issued by such Poor Law Commissioners in respect to out-door relief.

Commissioners' annual report.

[*Ss. 22, 23 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

24. This Act shall be construed in the same manner as the Poor Relief (Ireland) Act, 1838, and the Poor Relief (Ireland) Act, 1843, and as one Act with the same and with the Acts and provisions thereby directed to be construed as one Act, unless where otherwise directed by this Act.

Construction.
1 & 2 Vict.c.56.
6 & 7 Vict.c.92.

[*S. 25 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[¹ Words in brackets rep. 38 & 39 Vict. c. 66. (S.L.R.).]

CHAPTER XCI.

AN ACT to direct the Application of the Funds granted for the Promotion of Manufactures and Improvements, in Scotland. [22d July 1847.]

[*Preamble recites 13 Geo. I. cc. 26, 30; Letters Patent 18 July 1727; 48 Geo. 3. c. 110; Letters Patent 15 August 1808; 55 Geo. 3. c. 94; Letters Patent 16 January 1828; under which funds were granted for encouraging manufactures in Scotland, and trustees appointed for managing such manufactures.*]

[S. 1 rep. 54 & 55 Vict. c. 67. (S.L.R.)]

Appropriation of part of the funds in hands of board of manufactures towards education in fine arts, &c.

2. It shall be lawful for the Treasury from time to time, by orders to direct the appropriation, by the said trustees for the encouragement of manufactures, of such portion of the said sums and funds applicable to improvements in manufactures as the Treasury shall think fit, towards the purpose of education in the fine arts generally, and in decorative and ornamental art, and in taste and design in manufacture, as well as towards the other purposes to which such sums and funds have been hitherto applied.

Rules, &c. for application by trustees of monies so to be appropriated, &c.

3. It shall be lawful for her Majesty, by and with the advice of her Privy Council, by any order or orders in council to be issued from time to time, to establish rules and regulations for the application by the said trustees, to the purposes of education aforesaid, of the sums and funds so to be appropriated by the Treasury. and also for the conduct and good government of the said trustees, and the regulation of their official duties and management in that matter, and also from time to time to revoke, alter, and amend such rules and regulations; and all such orders in council shall, within fourteen days after the same shall be issued, be published in the Edinburgh Gazette; and all such orders of the Treasury, and also all such orders in council, shall, within the like period of fourteen days, be laid upon the table of both Houses of Parliament, if Parliament be then sitting, or if otherwise, within fourteen days of the meeting of the then next session of Parliament.

Recited Acts and letters patent to remain in force.

4. The said recited Acts and the said letters patent shall remain in full force and effect, excepting in so far as altered or affected by this Act, and shall be operative and efficient for carrying all the purposes of this Act into execution, according to the true intent and meaning thereof.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XCII.

AN ACT for the Protection of Mussel Fisheries in Scotland.^[1]
[22d July 1847.]

[*Preamble recites that mussel fisheries in Scotland have been the subject of royal grant and of private right, and also recites 3 & 4 Vict. c. 74.*]

[1.] If any person in that part of the United Kingdom called Scotland shall wilfully, knowingly, and wrongfully take and carry away any mussels or mussel brood from any mussel bed, scalp laying, or fishery, being the property and in the lawful occupation of any other person or persons or body corporate or politic, and sufficiently marked out or known as such, every such offender shall be deemed guilty of theft, and being guilty thereof shall be liable to be sentenced to imprisonment not exceeding the term of one year.

Unlawfully taking of mussels from private mussel beds.

2. If any person shall unlawfully use any dredge, or any net or instrument or engine whatsoever, or shall trespass within the limits of any mussel bed, scalp laying, or fishery in Scotland, being the property and in the lawful occupation of any other person or persons or body corporate or politic, and sufficiently marked out or known as such, for the purpose of taking mussels or mussel brood, though none shall be actually taken, or shall, with any net, instrument, or engine, or with the hand or otherwise, drag or fish upon the ground or soil of any such mussel bed, scalp laying, or fishery, every such person shall be deemed guilty of an attempt to commit theft, and being convicted thereof before the sheriff of the county shall be liable to be punished by fine or imprisonment, or both, as the court shall award, such fine not to exceed ten pounds, and such imprisonment not to exceed three calendar months.

Unlawfully fishing or trespassing in private mussel beds.

3. Nothing in this Act contained shall prevent any person, lawfully entitled there to fish, from fishing for or catching any floating fish within the limits of any mussel fishery, with any net, instrument, or engine adapted for taking floating fish only.

Saving as to floating fish.

4. Nothing in this Act contained shall prevent or be construed to prevent any person from exercising any right possessed by such person of taking bait, or any other right which may now be lawfully exercised by such person within the limits of any such fishery.

Saving of rights of taking bait, &c.

[S. 5. *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

[¹ Short title, "The Mussel Fisheries (Scotland) Act, 1847." See 55 & 56 *Vict. c.* 10.]

CHAPTER XCIV.

AN ACT to amend an Act to enable Canal Companies to become Carriers upon their Canals. [22d July, 1847.]

[*Preamble recites 8 & 9 Vict. c. 42.*]

Recited Act
incorporated.

[1.] The said recited Act shall be incorporated with this Act.

Borrowing by
canal com-
panies adopting
recited Act.

2. It shall be lawful to the proprietors, trustees, and undertakers of any canal, river, or navigation who shall have in the manner provided by the said recited Act adopted the powers and provisions of the same to borrow on mortgage or bond, in the manner or as nearly as may be in the manner prescribed by the Companies Clauses Consolidation Act, 1845, or the Companies Clauses Consolidation (Scotland) Act, 1845, as the case may be, any sum or sums of money not exceeding in all at any one time one tenth part of the paid up capital stock of such proprietors, trustees, or undertakers respectively, and to apply the monies so raised to the purposes of the said recited Act, or any of such purposes: Provided always, that the monies so borrowed, shall not be applied to any other purposes whatsoever: Provided also, that the monies so to be borrowed, together with any monies otherwise borrowed by any such proprietors, trustees, or undertakers as aforesaid, shall not in all exceed one third part of the paid-up capital of such proprietors, trustees, or undertakers respectively; and that no mortgage or bond to be granted for any monies borrowed in virtue of this Act shall prejudice or affect any security previously granted for any monies borrowed by virtue of any other Act or Acts of Parliament relating to any such canal, river, or navigation.

8 & 9 Vict.
cc. 16, 17.
as to bor-
rowing, &c.
incorporated
with this Act.

3. And for the purposes of this Act, such of the clauses and provisions of the Companies Clauses Consolidation Act, 1845, and of the Companies Clauses Consolidation (Scotland) Act, 1845, respectively, as the case may be. as relate to the borrowing of money by companies on mortgage or bond, and to the conversion of borrowed money into capital, shall be incorporated with this Act.

Saving as to
future Acts.

4. Nothing herein contained shall be construed to exempt any canal or navigation company who have adopted or shall adopt the powers of the said recited Act from the operation of any general Act regulating the manner of charging tolls and other charges upon canals or navigations in respect of passengers, goods, animals, articles, and things, of a like description, that may be passed in the course of this or any future session of Parliament.

[S. 5. *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER XCV.

AN ACT to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.^[1] [22d July 1847.]

[*Preamble recites 5 & 6 Vict. c. 45. s. 17 (prohibiting a person not being the proprietor of the copyright from importing into the United Kingdom or into British Dominions for sale or hire any printed book first composed, written, printed or published in the United Kingdom wherein there is copyright, and reprinted out of British Dominions), and a similar prohibition in 8 & 9 Vict. c. 93. since repealed.*]

1. In case the legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British authors in such possession, and shall pass an Act or make an ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to her Majesty, and in case her Majesty shall be of opinion that such Act or ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession, it shall be lawful for her Majesty, if she think fit so to do, to express her royal approval of such Act or ordinance, and thereupon to issue an order in council declaring that so long as the provisions of such Act or ordinance continue in force within such colony the prohibitions contained in the aforesaid Acts, and herein-before recited, and any prohibitions contained in the said Acts, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony; and thereupon such Act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such order in council, any thing in the said last-recited Act or in any other Act to the contrary notwithstanding.

2. Every such order in council shall, within one week after the issuing thereof, be published in the London Gazette, and a copy thereof, and of every such colonial Act or ordinance so approved as aforesaid by her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament.

[S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

If any British possession passes an Act or ordinance securing the rights of British authors in such possession, her Majesty may, by order in council, suspend the prohibitions of the recited Acts, &c. against importing, &c. into such possession foreign reprints of books first composed, &c. in the United Kingdom.

Publication of orders in council and ordinances.

[¹ Short title, "The Colonial Copyright Act, 1847." See 55 & 56 Vict. c. 10.]

CHAPTER XCVIII.

AN ACT to amend the Law as to Ecclesiastical Jurisdiction in England.^[1] [22d July 1847.]

[*Preamble recites 6 & 7 Will. 4. c. 77.*]

Jurisdiction
of bishop
throughout
his diocese.

[1.] The bishop of every diocese in England shall by himself or his officers exercise throughout the whole of his diocese, as it now is or hereafter may be limited or constituted, . . . the same jurisdiction and authority which before the passing of this Act he or any bishop lawfully could or might exercise by himself or his officers within any part of such diocese.

[*S. 2 rep. 57 & 58 Vict. c. 56. (S.L.R.). Ss. 3, 4 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Saving as to
marriage
licences.

5. All authorities, save and except the authority of the bishop of whose diocese any portion has been or may hereafter be taken away and added to another diocese under the provisions of the herein-before recited Act, shall continue to grant marriage licences in the same manner and within the same district as they might have done before the passing of the said Act: Provided always, that nothing herein contained shall be construed to interfere with the jurisdiction or concurrent jurisdiction, as the case may be, of the bishops of the several dioceses in England to grant marriage licences in and throughout the whole of their dioceses, as such are now or hereafter may be limited or constituted.

[*Ss. 6-8 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Officers of
ecclesiastical
courts to be
subject to
regulations.

9. Every person appointed to the office of judge, registrar, or other officer of any ecclesiastical court in England, shall hold the same, subject to all regulations and alterations affecting the same which may be made by authority of Parliament; nor shall any person by his appointment to any such office acquire any claim or title to compensation in case the same be altered or abolished by Act of Parliament.

[*S. 10 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[¹ Ss. 1, 5, which by s. 7 were of temporary duration, have been continued by the Expiring Laws Continuance Acts.]

CHAPTER C.

S.L.R.
1954.

AN ACT to regulate the Superannuation Allowances of the Constabulary Force in Ireland and the Dublin Metropolitan Police.

[22d July 1847.]

[Preamble recites 6 & 7 Will. 4. c. 13.]

[Ss. 1, 7 rep. 38 & 39 Vict. c. 66. (S.L.R.) Ss. 3-6 local and personal.]

8. It shall be lawful for the Lord Lieutenant to direct that such number of clerks shall be employed in the establishment of the office of the inspector general of the constabulary force, and at such amount of salary respectively, as shall from time to time be determined by the Treasury

Number and salaries of clerks in the inspector general's office. 2 & 3 Vict. c. 75.

[Ss. 9, 11 rep. 38 & 39 Vict. c. 66. (S.L.R.). S. 10 rep. in part 30 & 31 Vict. c. 95 s. 1, residue local and personal.]

CHAPTER CIV.

AN ACT to explain the Acts for the Commutation of Tithes in England and Wales . . . [1]

[22d July 1847.]

[Preamble recites 6 & 7 Will. 4. c. 71; 5 Vict. c. 7; 5 & 6 Vict. c. 54.]

[S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

2. [Recital of 6 & 7 Will. 4. c. 71. s. 66.] Notwithstanding any exception in the said Act contained, every instrument purporting to be an instrument of apportionment confirmed under the hands and seal of the said Tithe Commissioners shall be hereby absolutely confirmed and made valid, both at law and in equity, in all respects, subject nevertheless to the powers given to the Tithe Commissioners in the first-recited Act, or in any Act passed for the amendment thereof, for alteration of any instrument of apportionment.

Instruments of apportionment under hands and seal of Tithe Commissioners to stand good, subject to powers of alteration.

3. Provided always, that if it shall be shown to the satisfaction of the said Tithe Commissioners that any lands have been improperly included or improperly charged with rentcharge in any confirmed instrument of apportionment, it shall be lawful for the said Tithe Commissioners to correct such apportionment, and the deposited copies thereof, either by excluding such lands so improperly charged from the apportionment, and re-distributing any rentcharge imposed upon such lands on lands legally liable to the payment thereof, or by sanctioning the redemption of the rentcharge so improperly charged by the persons capable of redeeming the same under the provisions of the Tithe Act, 1846; and all costs and expenses attendant upon the correction of any confirmed instrument of apportionment shall be borne and paid by such persons and in such proportions as the said Tithe

Correction of instruments of apportionment.

9 & 10 Vict. c. 73.

[1 Short title, "The Tithe Act, 1847." See 55 & 56 Vict. c. 10.]

Commissioners shall direct, and shall be recoverable from the person or persons declared liable by the said Tithe Commissioners to the payment of the same, in such manner as expenses attendant upon original instruments of apportionment are recoverable.

Instruments to be delivered up for the purpose of such correction.

4. For the purposes of such correction or of recording any such redemption the person or persons having the custody of any copy of any instrument of apportionment shall be bound, upon the application of the Tithe Commissioners, to deliver to the said Tithe Commissioners any copy of a confirmed instrument of apportionment which shall have been deposited with them respectively.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER CVIII.

AN ACT for establishing the Bishoprick of Manchester, and amending certain Acts relating to the Ecclesiastical Commissioners for England^[1]. [23d July 1847.]

Appointment of commissioners.

[Recital of 6 & 7 Will. 4. c. 77; 3 & 4 Vict. c. 113; 4 & 5 Vict. c. 39; 6 & 7 Vict. c. 77.] Whereas her Majesty was pleased, on the tenth day of February in this year one thousand eight hundred and forty-seven, to issue a commission to certain persons therein named, directing them to consider the state of the several bishopricks in England and Wales with special reference to the intention, therein graciously declared by her Majesty, that a measure should be submitted to Parliament for continuing the bishopricks of St. Asaph and Bangor as separate bishopricks, and for establishing forthwith a bishoprick of Manchester; and the said commissioners have made their first report to her Majesty, bearing date the twentieth day of April in this present year, and have in their said report recommended,

Their first report.

Recommendations.

That the diocese of St. Asaph consist of the whole counties of Flint and Denbigh, and such parts of the counties of Salop and Montgomery as are now in that diocese, except the deanry of Ceifeiliog in the last mentioned county; and

That the diocese of Bangor consist of the whole counties of Anglesea, Carnarvon, and Merioneth, and the deanries of Ceifeiliog and Arwstley in the county of Montgomery; and

That the diocese of Chester consist of the county of Chester and the deanry of Warrington in the county of Lancaster, except the parish of Leigh; and

That the new bishoprick of Manchester be forthwith founded, and endowed out of the revenues at the disposal of Ecclesiastical Commissioners applicable to episcopal purposes; and

That the diocese of Manchester consist of such parts of the deanries of Kendal and Kirkby Lonsdale as are in the

[¹ Short title, "The Ecclesiastical Commissioners Act, 1847." See 55 & 56 Vict. c. 10.]

county of Lancaster, and of the deanries of Amounderness, Blackburn, Manchester, and Leyland, and the parish of Leigh in the deanry of Warrington, all in the same county; and

That an archdeaconry of Liverpool be founded in the diocese of Chester; and that such archdeaconry comprise the deanry of Worrall in the county of Chester, and the deanry of Warrington (except the parish of Leigh) in the county of Lancaster:

And whereas it is expedient that the said recommendations should be carried into effect, with such modifications as may be found necessary, and that certain of the provisions of the said recited Acts should be altered and amended:

[1.] . . . all the powers and authorities vested in her Majesty in council and in the Ecclesiastical Commissioners, by the said first and secondly recited Acts, with reference to the matters therein respectively contained, and all other the provisions of the same Acts relating to schemes and orders prepared, made, and issued for the purposes thereof, and to modifications and variations therein, shall be continued and extended and shall apply to her Majesty in Council, and to the said commissioners, and to all schemes and orders to be prepared, made, and issued by them respectively, for the purpose of carrying into effect the foregoing recommendations, as fully and effectually as if the said powers, authorities, and other provisions were repeated herein.

Powers by 6 & 7 Will. 4. c. 77. and 3 & 4 Vict. c. 113. vested in her Majesty in council and the Ecclesiastical Commissioners applied.

2. The number of lords spiritual now sitting and voting as lords of Parliament shall not be increased by the creation of the bishoprick of Manchester; . . .

Number of lords spiritual in Parliament.

[*S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER CIX.

AN ACT for the Administration of the Laws for Relief of the Poor in England^[1]. [23d July 1847.]

[*Preamble recites 4 & 5 Will. 4. c. 76. and amending Acts.*]

[1.] . . . whenever in this Act the word commissioners shall be used, without addition, it shall be taken to mean the Commissioners for Administering the Laws for Relief of the Poor in England.

Meaning of "commissioners" in this Act.

[*Ss. 2-4 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

5. The commissioners shall cause a seal to be made for their use, and such seal shall have the same force and effect as the seal of the Poor Law Commissioners now has in England, and documents purporting to be sealed or stamped therewith shall

Seal of the commissioners.

[¹ Short title, "The Poor Law Board Act, 1847." See 55 & 56 Vict. c. 10.]

be received in evidence in like manner and with the like effect as documents sealed or stamped with the seal of the Poor Law Commissioners are now received in evidence.

[*Ss. 6-9 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Transfer to the commissioners under this Act of the powers and duties of the Poor Law Commissioners.

10. All the powers and duties of the Poor Law Commissioners with respect to the administration or control of the administration of relief to the poor throughout England, and all other powers and duties now vested in them, shall be transferred to and vested in the commissioners, and shall be thenceforth exercised by them, . . . and all provisions in any Act relating to the administration of relief to the poor in England, or to the powers or duties of the Poor Law Commissioners, shall be construed as if in the said several Acts the commissioners had been named instead of the Poor Law Commissioners, subject nevertheless to any amendments made by this Act, either as to the substance or manner of exercising any of the powers of the said Poor Law Commissioners.

Power to summon witnesses, &c

11. The commissioners, by summons under their seal may require the attendance of all persons upon any matter connected with the execution of any of the powers by law vested in them, at such time and place as shall be set forth in the summons, and may make inquiry and require returns, and require and enforce the production upon oath of books, contracts, agreements, accounts, maps, plans, surveys, valuations, and writings, or copies thereof respect vely, in anywise relating to any such matter, and the commissioners or any one of them may upon such matters administer oaths, and examine upon oath all persons so brought before them or him, and, when they or he shall think fit, instead of requiring such oath as aforesaid, may require any such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined: Provided always, that no person shall be required, in obedience to any such order, to go more than ten miles from the place of his abode: Provided also, that nothing herein contained shall empower the commissioners to require the production of the title, or of any paper or deed relating to the title, of any lands, tenements, or hereditaments, not being the property of any parish or union.

[*S. 12 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Annual report of commissioners.

13. The commissioners shall once in every year submit to her Majesty a general report of their proceedings, and every such general report shall be laid before both Houses of Parliament within six weeks after the date thereof, if Parliament be then sitting, or, if Parliament be not then sitting, within six weeks after the next meeting of Parliament.

Power to make rules, orders, and regulations.

14. . . . the power vested in the Poor Law Commissioners to make rules, orders, and regulations, and from time to time to vary or rescind the same, shall be vested in the commissioners

constituted under this Act . . . ; and the commissioners shall make all such rules, orders, and regulations under their seal, except such as are intended only for their own guidance or procedure or for the guidance or procedure of any persons appointed or employed by them for the business of their office, . . .

15. Every rule, order, or regulation of the commissioners which at the time of issuing the same shall be directed to and affect more than one union shall be deemed a general rule, and every rule, order, and regulation made to vary or rescind a general rule, whether it be directed to or affect one or more than one union, shall also be deemed a general rule.

What rules shall be deemed general rules.

[*S. 16 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

17. If her Majesty shall be pleased at any time, by the advice of her Privy Council, to disallow any such general rule, or any part thereof, the same, so far as it shall have been so disallowed, shall cease to be of any force or validity, except as to all things lawfully done under the same before such disallowance, which shall be and continue to be valid.

If general rules are disallowed by her Majesty in council, they shall cease to be of any force.

[*S. 18 rep. 39 & 39 Vict. c. 66. (S.L.R.)*]

19. The commissioners shall from time to time, by order under their seal, appoint so many fit persons as shall be allowed by the Treasury to be inspectors, to assist in the execution of this Act and of other Acts now or which shall be hereafter in force for the relief of the poor in England, and may from time to time assign to the inspectors so appointed, or any of them, such duties in the execution of this Act as they think fit: and the commissioners, by order under their seal, may remove all or any of the said inspectors, and appoint others in their stead; and there shall be paid to every such inspector such salary as shall be from time to time regulated by the Treasury.

Appointment of inspectors.

20. The said inspectors, and each of them, shall be entitled to visit and inspect every workhouse or place wherein any poor person in receipt of relief shall be lodged, and to attend every board of guardians and every parochial and other local meeting held for the relief of the poor, and to take part in the proceedings, but not to vote at such board or meeting.

Inspectors may visit workhouses, &c. and attend boards of guardians and other local meetings.

21. The said inspectors may summon before them such persons as they may think necessary for the purpose of being examined before them upon any matter concerning the administration of the laws relating to the relief of the poor, or any other matter placed by law under the control or regulation of the commissioners, or for the purpose of producing and verifying upon oath any books, contracts, agreements, accounts, writings, or copies of the same, in anywise relating to such matter, and not relating to or involving any question of title to any lands, tenements, or hereditaments, not being the property of any parish or union, and may examine any person whom they shall so summon, or who shall voluntarily come before

Power to summon witnesses.

them to be examined upon any such matter, upon oath, which each of the said inspectors shall be empowered to administer, or, instead of administering an oath, the inspector may require the party examined to make and subscribe a declaration of the truth of the matter respecting which he shall have been or shall be so examined; and all summonses made by any such inspector for any such purpose as aforesaid shall be obeyed by all persons as if such summons had been the summons and order of the commissioners, and the nonobservance thereof shall be punishable in like manner; and the costs and expences of such person so summoned shall be paid in such cases and in such manner as the costs and expences of persons summoned under the authority of the first-recited Act are now payable: Provided always, that no person shall be required in obedience to any such summons to go or travel more than ten miles from his place of abode.

Appointment of inspectors for the purpose of conducting special inquiries.

22. . . . whenever it may seem fitting to the commissioners, they, with the consent of the Treasury, may appoint some fit person to act as an inspector for the purpose of conducting any special inquiry for a period not exceeding thirty days, and the said commissioners may delegate to every person so appointed for the purpose of conducting such inquiry all such of the powers of the said commissioners as they may deem necessary or expedient for summoning witnesses and conducting such inquiry.

Married persons, being both above 60 years of age, not compelled to live apart in workhouses.

23. Provided always, that when any two persons, being husband and wife, both of whom shall be above the age of sixty years, shall be received into any workhouse, in pursuance of the provisions of the said recited Act or of this Act, or of any rule, order, or regulation of the commissioners appointed by authority of this Act, such two persons shall not be compelled to live separate and apart from each other in such workhouse.

Where guardians neglect to appoint a visiting committee, or committee neglect to visit the workhouse, the commissioners shall appoint a visitor.

24. In all cases where boards of guardians neglect to appoint a visiting committee for the purpose of visiting the workhouse of the union, or when three months shall have elapsed during which such committee shall have neglected to visit such workhouse, the Poor Law Commissioners shall be required to appoint a visitor, not being one of the guardians, at a salary to be fixed by them, to be paid out of the general fund of the union: Provided always, that the appointment of any such paid visitor shall cease at the expiration of three calendar months next after the appointment of any visiting committee by the guardians, subject nevertheless to his re-appointment in case of any repetition of such neglect of the guardians or visiting committee as aforesaid.

Proof of order constituting board of guardians not necessary in certain cases.

25. In any civil or criminal proceeding it shall not be necessary to prove the sending of the original order of the Poor Law Commissioners, or of the commissioners, constituting any board of guardians, in any case in which any persons professing to

form a board in obedience to such order shall have taken upon themselves to act, and shall have continued for three years to act, in the execution of the laws for the relief of the poor; and in no proceeding shall it be lawful to question the qualification or validity of the election of any person as a guardian after the end of twelve months next following the election, or the time when the alleged disqualification or want of qualification of the person against whom such proceeding shall be directed shall have arisen.

Qualification or due election of a guardian not to be questioned after a certain time.

26. Every person who upon any examination under the authority of this Act shall wilfully give false evidence, or wilfully make or subscribe a false declaration, shall on being convicted thereof suffer the pains and penalties of perjury; and every person who shall refuse or wilfully neglect to attend in obedience to any summons of the commissioners, or any inspector, or to give evidence, or who shall wilfully alter, suppress, conceal, destroy, or refuse to produce any books, contracts, agreements, accounts, maps, plans, surveys, valuations, or writings, or copies of the same, which may be required to be produced for the purposes of this Act, to any person authorized by this Act to require the production thereof, shall be deemed guilty of a misdemeanor.

False evidence, and refusal to give evidence.

[S. 27 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.) S. 28 *rep.* 30 & 31 *Vict. c.* 106. s. 1.]

29. This Act shall be construed in the same manner as the Poor Law Amendment Act, 1834, and the Poor Law Amendment Act, 1842, and the several Acts passed for the amendment of the said Acts or either of them, and as one Act with the same, and with the Acts and provisions thereby directed to be construed as one Act, unless where otherwise directed by this Act.

Construction. 4 & 5 Will. 4. c. 76, 5 & 6 *Vict. c.* 57, &c.

[S. 30 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CXI.

AN ACT to extend the Provisions of the Act for the Inclosure and Improvement of Commons.^[1] [23d July 1847.]

[*Preamble recites* 8 & 9 *Vict. c.* 118.]

[1.] Where an action, suit, or difference shall be pending concerning the title to any manor, land, or right, or to an estate or interest therein, of which the actual owner would, under the definitions of the said Act, be (in respect of such manor, land, or right,) the person interested in the land concerning which any application or proceeding may be made or be pending under the said Act, the consent of both the persons between whom such

Where the title to a manor, &c. is in dispute the consent of both claimants to be equivalent to consent of owner.

[¹ Short title, "The Inclosure Act, 1847." See 55 & 56 *Vict. c.* 10.]

action, suit, or difference may be pending to any application inclosure, or other proceeding under the said Act shall be as effectual as the consent of the actual owner of the manor, land, or right, or of such estate or interest therein, would have been in case no action, suit, or difference had been pending.

Consent, &c.
in the case of
more than one
person being
interested
under a claim.

2. Provided always, that where, according to the claim of a party to such action, suit, or difference, more than one person would be or become interested as aforesaid in respect of such manor, land, or right, such consent of such number or portion, or (as the case may require) such nonsignification of dissent by such number or portion of the persons who would so become interested, to the application, inclosure, or other proceeding, as would have been sufficient in case such claim had been established shall be equivalent to the consent of the party so claiming under the provisions of this Act.

Where land
has been
inclosed, by
encroachment
or otherwise,
from land
subject to be
inclosed, for
20 years or
more, and is
not declared
allotable, pro-
ceedings for
inclosure not
to prejudice
the rights of
the crown or
others to such
land, or the
minerals there-
under, or any
rent for the
same.

3. Where any lands shall have been inclosed, by way of encroachment or otherwise, from any land subject to be inclosed under the said recited Act, for more than twenty years next preceding the day of the first meeting for the examination of claims in the matter of an inclosure under the provisions of the said Act, and shall not, with such consent as in the said Act provided, be directed by the valuer to be considered as allottable, and parcel of the land to be inclosed, neither the award in the inclosure under the provisions of the said Act, nor any consents or orders previous thereto, shall be taken to divest, defeat, or prejudice any property, estate, right, or title of her Majesty or of any other person in or to the lands so inclosed for twenty years or upwards as aforesaid, or the minerals or substrata under the same, or in or to any rent or payment payable in respect thereof (except only any rights of common intended to be extinguished by the inclosure under the provisions of the said Act).

Exchanges may
be made of
lands, excepting
or reserving
minerals and
easements.

4. Where an exchange shall be made under the said Act of lands not subject to be inclosed under such Act, or of lands subject to be so inclosed as to which no proceedings for an inclosure shall be pending, it shall and may be lawful for the commissioners, in conformity with the terms of the application for such exchange, to except or reserve out of such exchange the property or right of or to all or any of the mines or minerals under all or any part of the land given by both or either of the parties, together with rights and easements for or auxiliary to the exercise or enjoyment of the right or property of such excepted or reserved mines and minerals, and (whether such mines and minerals shall or shall not be reserved) such rights of way and other easements as the parties to such application may have agreed on

Applications
to amend
award under a
local Act, or

5. [*Recital of 8 & 9 Vict. c. 118. s. 115, as to applications to amend any award under any local Act of inclosure or under 6 & 7 Will. 4 c. 115, and repeal of recited section.*] In case the

commissioners shall think fit to proceed on any such application as aforesaid the commissioners shall refer such application to an assistant commissioner, and such assistant commissioner shall hold such meeting or meetings to hear any objections which may be made to such application, and any information or evidence which may be offered in relation thereto, or to the matter thereof, and shall report his opinion as to the expediency or in expediency of proceeding upon such application, having regard to all rights which may be disturbed or affected thereby, in such and the same manner, and subject to such and the same provisions concerning notices of such meetings, as are in the Inclosure Act, 1845, contained concerning inquiries as to the expediency or in expediency of a proposed inclosure; and upon the report of such assistant commissioner it shall be lawful for the commissioners to proceed or to abstain from proceeding further on such application, as they may think fit; and it shall be lawful for the commissioners (where they shall so think fit) to cause such further meetings to be held, and inquiries made in relation to such application, or to the report thereupon, as might have been held or made in the matter of a proposed inclosure, and to give such directions in relation to the matter of such application, or to the execution of the powers or authorities thereby proposed to be revived or executed, as the circumstances of each case shall appear to them to require.

under
6 & 7 Will. 4.
c 115., or to
authorize the
execution of
any power
under a local
Act, &c.

8 & 9 Vict.
c. 118.

6. And whereas it is provided by the said Act that any land taken in exchange or on partition or allotted in respect of copyhold or customary land shall be deemed copyhold or customary land, and shall be held of the lord of the same manor, under the same rent, and by the same customs and services, as the copyhold or customary land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary land in respect whereof such exchanges, partitions, or allotments shall be made: And whereas it is expedient to enable the parties so taking such lands in exchange or on partition or as allotments to hold the same of freehold tenure: Be it enacted, that, by and with the consent of the lord of the manor, and of the parties so taking such lands in exchange or on partition or as allotments, it shall and may be lawful for the said commissioners to declare that the same shall be held as of freehold tenure, on such terms and conditions as may be agreed upon between the parties, and as may be deemed just by the said commissioners, and the same land shall be held as freehold accordingly.

Lands taken in
exchange, &c.
in respect of
copyhold or
customary
lands may be
declared free-
hold.

7. Where notice shall have been given of any meeting, whether original or by adjournment, to be held by the commissioners or by an assistant commissioner, or otherwise, it shall be lawful for the commissioners or an assistant commissioner by notice to adjourn such meeting, without any commissioner or assistant commissioner giving attendance for the purpose of

Adjournment
of meetings.

making such adjournment; and where notice shall have been given of a meeting by a valuer, it shall be lawful for him by notice to adjourn such meeting, without giving attendance for the purpose of making such adjournment.

Notices may be given by the secretary of the commissioners, &c.
8 & 9 Vict.
c. 118.

8. All notices by the Inclosure Act, 1845, or by any Act amending the same or referring thereto, or by this Act, directed or authorized to be given by the commissioners and assistant commissioners respectively may be given by the secretary of the commissioners, or by any person whom the commissioners or any assistant commissioner, in conformity with the power delegated to him by the commissioners, may appoint or authorize for that purpose.

Construction.
8 & 9 Vict.
c. 118.

9. This Act shall be taken to be a part of the Inclosure Act 1845, and be construed therewith, and with any Act amending the same or referring thereto.

[S. 10 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CXIII.

AN ACT to facilitate the Drainage of Lands in Scotland.^[1]

[23d July 1847.]

[*Preamble recites* 9 & 10 *Vict. c.* 101 ; 10 & 11 *Vict. c.* 11.]

Persons desirous of draining, &c. land and unable to execute the works, by reason of objections thereto, &c. may apply to the sheriff for authority to effect such drainage, &c.

[1.] Where any land shall be capable of being drained or improved by drainage, by means of works to be executed on the same and other lands for obtaining or improving the outfall or otherwise, it shall be lawful for any persons interested in the lands so capable of being drained or improved, and who shall be desirous for that purpose to execute all or any of the works herein-after mentioned, and shall be unable to execute such works by reason of the objection, absence, or disability of any person whose land, property, or rights would be entered upon, cut through, interfered with, or affected by or for the purpose of such works, to make application to the sheriff of the county within which the lands, property, or rights so to be entered upon, cut through, interfered with, or affected are situated, or, in the event of such lands, property, or rights being situated in more counties than one, to the sheriff of that county in which the portion of such lands, property, or rights most contiguous to the lands to be drained and improved shall be situated, showing the means by which such drainage or improvement may be effected, and praying for authority to effect the same, under the provisions of this Act; and to such application shall be annexed a map or plan, showing the land to which such application shall relate, and the land and property required to

Map or plan to be annexed to such application;

[¹ Short title, "The Land Drainage (Scotland) Act, 1847." See 55 & 56 *Vict. c.* 10.]

be entered upon, cut through, or interfered with for the purposes of such drainage or improvement, or likely to be affected by the proposed works, and also the rivers, watercourses, ditches, and drains intended to be cleared, scoured, deepened or embanked, and the proposed variations, divisions, abridgments, or enlargements of the same, and the new cuts, embankments, drains, watercourses, and other works proposed to be made, and the dams, sluices, weirs, or floodgates to be lowered, altered, or removed, and the engines and machinery proposed to be erected for the purposes of such drainage or improvement, and also schedules showing the reputed proprietors, lessees, and occupiers of the lands proposed to be drained and improved, and the lands and property required to be entered upon, cut through, or interfered with respectively for the purposes of such drainage or improvement, and also an estimate of the expence of the proposed works, engines, and machinery, including the probable amount of money payable as purchase and compensation money in respect of the land and property or rights required to be entered upon, cut through, interfered with, or affected, and also a statement of the actual condition of the lands proposed to be drained or improved, and of the probable increased value of the land consequent upon the execution of the proposed works; or, in case it shall appear to the sheriff that a correct judgment can be formed on the proposed means of drainage or improvement without a map or plan and estimates including the whole of the land to which such application shall relate, then a map or plan showing only the proposed works, or such other map or plan as the sheriff shall think necessary; and the persons by whom such application shall be made shall, upon the request of the sheriff, furnish such further details in respect of the said map or plan, schedules, estimates, and statements, or any of them, as the sheriff shall think fit for his guidance in the matter of the application; and the persons by whom such application shall be made shall cause copies of the said application, map or plan, schedules, estimates, and statements, or of such of them as shall have been furnished to the sheriff under the provisions hereinbefore contained, to be deposited in such convenient place or places as the sheriff shall approve, within or adjoining to the parish or one of the parishes in which the land to which such application shall relate shall be situate, there to remain open for public inspection for a period of two months; and the deposit of such copies shall be certified to the sheriff in such manner as he shall require; and all persons shall be at liberty to inspect and make copies of or extracts from the said application, map or plan, schedules, estimates, and statement, or any of them, and copies thereof or extracts therefrom shall be made by such person as the sheriff shall direct for any person who shall require the same, on payment of the expences of making such copies or extracts.

also an estimate of the expence, and a statement of the actual condition of the lands.

Copies of application, map, &c. to be deposited, and to be open to inspection.

2. The clauses of the Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the service of notices on owners and

8 & 9 Vict.
c. 19., with re-
spect to service

of notices on owners, &c., incorporated with this Act, and notice to be given of application having been made.

occupiers of land, shall be incorporated with this Act; and notice, as therein provided for, shall be given of such application having been presented, and of the parishes in which works are by such application proposed to be executed, and of the places in which copies of the said application, map or plan, schedules, estimates, and statements have been deposited as aforesaid; and by such notice all parties interested or in any way affected by the proposed works shall be required, on or before a day to be therein named, not sooner than six weeks and not later than eight weeks from such publication and service as aforesaid of such notice, to transmit in writing to the sheriff all objections which such parties shall think fit to make with respect to any thing by the said application proposed to be done under the provisions of this Act.

Security for payment of expenses of inquiry, &c.

3. The sheriff may, in every case before he shall proceed to act or inquire on or in relation to any such application as aforesaid, require such provision or security to be made or given as he shall think fit for the payment, by the parties making the application, of all expences incident to or to be occasioned by the inquiries and proceedings in relation thereto.

Inquiry into objections to application.

4. In every case in which there shall have been transmitted to the sheriff objections to any thing by the said application proposed to be done, the sheriff shall appoint a properly qualified person to inspect the lands proposed to be drained or improved, and the lands, property, or rights intended to be entered upon, cut through, interfered with, or affected by the works in such application mentioned, and to report to him the comparative amount of benefit to be derived and damage to be done thereby, and whether in his opinion the lands proposed to be drained might be drained in any other way than by the works in such application mentioned, and the comparative advantages and disadvantages of such several ways of drainage; and the sheriff shall, if he shall think necessary, require the parties interested in such lands, property, and rights, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to attend him, or the person so to be appointed by him, at such time as he shall fix subsequent to the expiration of such period of six weeks, and at such convenient place or places within the parish or one of the parishes wherein such land so to be drained or improved shall be situate, or in the vicinity thereof, as the said sheriff shall specify in a notice to be given twenty-one days at the least before the time of such meeting, by advertisement in one or more newspapers circulated in the county in which such works are proposed to be executed; and at the time and place named in such notice as aforesaid the sheriff, or the person so appointed by him as aforesaid, shall attend, and shall have power to adjourn any meeting from time to time, or hold any new meeting, as he may find necessary, and shall inquire into the correctness of the

schedules containing the names of such reputed proprietors, lessees, and occupiers as aforesaid, and shall inquire whether the notices by the Act required shall have been duly given and served, and shall hear and inquire into all such objections as shall have been or shall be then and there made by any person or persons interested in any land likely to be affected by any thing by such application proposed to be done; and the said sheriff, or person appointed by him as aforesaid, shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid.

5. If after such inquiry shall have been concluded the sheriff shall be of opinion that the benefit to be derived from such drainage or improvement outweighs the damage to be done thereby, and the proposed method of drainage is in the whole circumstances the best, and that such drainage or improvement may be effected without material detriment to the lands, property, or rights proposed to be entered upon, cut through, interfered with, or affected, and that the damage to the lands, property, or rights so proposed to be entered upon, cut through, interfered with, or affected may be adequately and effectually compensated under the provisions of this Act, he may allow such works, according to the proposal in such application contained, or with such alterations therein as he may think fit; and it shall be lawful for him to authorize the persons by whom such application shall have been made, or any of them, or any other person or persons to be named or described by him in an order to be issued by him, to execute the proposed works, as the same shall have been allowed as aforesaid, within a time to be limited in such order; and such order shall specify or describe directly, or by reference to a plan thereunto annexed, the works thereby authorized to be executed; and the person or persons authorized in this behalf by such order, or the person or persons who shall be authorized by any supplementary order of the sheriff, shall have full power to execute the works in such order specified and authorized, according to the terms and intent of such order, and to maintain such works for ever thereafter, subject nevertheless to the provisions herein-after contained, and making compensation, to be ascertained in manner herein-after mentioned, to all persons, for any damage occasioned to them by the exercise of the powers granted by such order, or any of them: Provided always, that no such order shall be made for allowing any works to be executed in any park, policy, garden, pleasure garden, or planted walk, or the avenue to any mansion house, without the consent in writing of the proprietor and occupier thereof, and that every such order of the sheriff shall be subject to review by the Court of Session according to the ordinary forms of law.

Sheriff, after inquiry, may authorize the execution of the works.

6. In the case of objections lodged before the sheriff the expences attending the proceedings which may take place in

Expences of proceedings in

consequence
of objections.

consequence of such objections shall be borne by the persons by whom the application is made, unless the sheriff shall decide that any objection is frivolous and vexatious, in which case it shall be in the power of the sheriff to award such part of the expences as he shall think just to be paid by the objector.

If no objections
lodged, sheriff
may authorize
works to be
executed.

7. Provided always, that if no objections shall be lodged as aforesaid the sheriff shall, if he shall think fit, authorize the works so applied for, or so much thereof as he shall think fit, to be executed according to the plan or description lodged with such application, or with and under such modifications and alterations as shall appear to him to be proper, under the inspection and superintendence of a competent person, to be appointed by him, and subject to the restrictions and exceptions hereinbefore contained.

Persons author-
ized to execute
works may
enter upon
lands specified
in sheriff's
order.

8. It shall be lawful for any person authorized by the sheriff as aforesaid to enter in and upon any land specified in the order of the sheriff, not being a park, policy, garden, pleasure ground, or planted walk, or the avenue to any mansion house, and in terms of such order, but not otherwise, to widen, straighten, deepen, divert, scour, or cleanse any river, stream, ditch, drain, brook, pool, or watercourse, and to make, open, and cut any new watercourse, side-cut, ditch, or drain, and to make or erect any bank, dam, weir, sluice, flood gate, ditch, drain, tunnel, or other works necessary or convenient for drainage: Provided always, that nothing herein contained shall interfere with or be held to supersede the present law authorizing and regulating the cleaning, scouring, and maintaining of streams and watercourses throughout their whole length by the different proprietors thereon, according to their respective rights and interests therein, and for recovering the expences thereby incurred.

Obstructions on
rivers, &c.
preventing
drainage out-
falls may be
removed.

9. Where the drainage outfall of any lands is prevented or obstructed by the damming up of any river or stream by any weir, dam, sluice, or other obstruction, it shall be lawful for any person authorized by the sheriff as aforesaid, and in terms of his order, but not otherwise, to enter in and upon the lands where such weir, dam, sluice, or other obstruction is situated, except as herein-before excepted, and to remove, alter lower, or otherwise interfere with the same, or with the watercourses connected therewith, as shall be necessary or convenient for the purposes of the outfall: Provided always, that where such weir, dam, sluice, or other obstruction is for the use of any factory or bleachwork, or of any mill, it shall not be lawful to diminish the actual working water power of such factory or bleachwork, or of such mill, without the consent of the proprietor or occupier thereof, until a steam engine, or other engine or machinery of equal power, shall have been erected for the use of such factory, bleachwork, or mill, and full compensation paid to the proprietor and occupier thereof for the difference in the expence of using and maintaining such steam power, or other power or machinery,

Proviso as to
working water
power of
factories.

as compared with the expence of the water power theretofore enjoyed by them respectively.

10. Provided always, that nothing herein contained shall authorize the removal of any obstruction in any river or stream so as to occasion injury to any salmon fishery; and that in all cases where it shall be necessary to remove any obstruction required for the supply of water to any mill, the proprietor of such mill shall be entitled to require of the person making the application as aforesaid to purchase such mill, and make full compensation therefor, in the manner directed by this and the said Lands Clauses Consolidation (Scotland) Act, 1845, or such proprietor may determine that the diminished supply of water power shall be compensated as hereinbefore provided; and in such case he shall be entitled to decide whether such compensation shall be effected by steam power or by other machinery or power; and no steam engine shall be erected in or upon the bank of any river or stream in any situation in which the same shall be a nuisance or shall injure the amenity of any dwelling house, without the consent in writing of the proprietor of such river or stream, and of the owner and occupier of such dwelling house, first had and obtained thereto.

Obstructions not be removed to injury of salmon fisheries.

Proprietors of mills affected may require the same to be purchased under 8 & 9 Vict. c. 19., or loss of water-power to be supplied.

Steam engines not to be erected so as to be nuisances to houses, without consent.

11. No order of the sheriff under this Act shall authorize any work whereby any spring, brook, or stream supplying any mansion, house, or offices with water, or contributing to the amenity or ornament of any mansion, house, park, policy, garden, or pleasure ground, shall be diverted or affected, without the consent in writing of the several proprietors thereof.

Water supplying houses, or ornamental water, not to be affected without consent.

12. No entry shall be made on any land for the purpose of executing any of the works authorized as aforesaid, except with the consent in writing of the proprietors thereof, until the amount of compensation for the damage to be occasioned by such entry, and by the execution and maintenance of the works authorized as aforesaid, shall have been agreed upon or ascertained, as the case may be, and paid, under the provisions hereinafter contained.

No entry to be made on lands without consent, until compensation is paid.

13. The compensation to be paid for the damage or injury to any lands, property, or rights which may be entered upon, cut, through, interfered with, or affected under any such order of the sheriff as aforesaid may be agreed upon with the persons and in the manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the purchase of land otherwise than by agreement; and all the provisions of the Lands Clauses Consolidation (Scotland) Act, 1845, in so far as the same are not inconsistent with this Act, shall be incorporated with this Act, and shall apply thereto, and to the works and purchases to be authorized by the sheriff, in such and the same manner as if the works and purchases which shall be authorized by the sheriff had been set forth and authorized to be executed and made by this Act; and the persons making the application to the sheriff shall be deemed the promoters of the undertaking: Provided

Incorporation of 8 & 9 Vict. c. 19.

always, that in estimating the amount of any compensation to be paid as aforesaid it shall be lawful to take into account the benefit which in consequence of the operations authorized to be executed may accrue to the party claiming compensation, or to the lands, property, or rights proposed to be interfered with or affected.

Power to sheriff to give authority to enter upon lands for the purpose of maintaining works.

14. For the purpose of maintaining, repairing, and upholding in an efficient state any works authorized to be executed under the authority of this Act it shall be lawful for the sheriff, on the application of any person interested, to give authority to enter from time to time upon the lands where such works have been executed, and to perform such operations as may be necessary for maintaining, repairing, and upholding as aforesaid; and it shall be lawful for the sheriff to allocate the expence of such operations among the persons deriving benefit therefrom, in such proportions as to him shall seem just.

Copies of orders of sheriff authorizing works to be deposited.

15. Two copies of every order of the sheriff by which he shall authorize the execution of works under the provisions of this Act shall be made, and one such copy shall be deposited with the sheriff clerk of the county in which that part of the lands, property, or rights authorized to be entered upon, cut through, interfered with, or affected most contiguous to the lands proposed to be drained and improved shall be situated, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the parish schoolmaster for the time being of the parish in which the said land, property, or rights shall be situated, to be kept by him and his successors in office with the public books, writings and papers of the parish, or shall be deposited with such other fit persons as the sheriff shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of two shillings and sixpence for such inspection, and after the rate of threepence for every seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any such order as aforesaid as shall be furnished by the sheriff clerk shall be signed by the sheriff clerk, purporting the same to be a true copy or extract; and every such copy and extract, so signed, shall be received in evidence without further proof thereof.

Saving as to foreshore, &c. without consent of Admiralty, Commissioners of Woods, &c.

16. Provided always, that it shall not be lawful for any person acting or pretending to act under this Act to make or construct, alter or extend, on the shore of the sea, or of any creek, bay, or arm of the sea, or any navigable river communicating therewith, where and so far up the same as the tide flows, any work which might not have been lawfully made or constructed in case this Act had not been passed, without the previous consent of the Lord High Admiral of the United Kingdom of Great Britain

and Ireland, or the Commissioners for executing the office of Lord High Admiral of the United Kingdom aforesaid, for the time being, to be signified in writing under the hand of the Secretary of the Admiralty, and then only according to such plan and under such restrictions and regulations as the said Lord High Admiral, or Commissioners for executing the office of Lord High Admiral aforesaid, may approve of, such approval being signified as last aforesaid; and if any such work shall be commenced or completed contrary to the provisions of this Act, it shall be lawful for the said Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral aforesaid, at his or their discretion, to abate and to remove the same, and to restore the site thereof to its former condition, at the cost of the person or of any one or more of the persons by whom the same shall have been so commenced or completed; and nothing herein contained shall authorize or enable any person acting or pretending to act under this Act to make or construct any work affecting any navigable river or canal, or any river within the provisions of any Act of Parliament, without the consent of the trustees or proprietors of such river or canal, and of her Majesty's Commissioners of Woods or to use or occupy land between high or low water mark, without the consent of her Majesty's Commissioners of Woods.

17. In the construction of this Act (except where the nature of the provision or the context of the Act is repugnant to such construction) "the sheriff" shall mean the sheriff or his substitute; and the word "plan" shall extend to drawings and sections; and the word "river" shall extend to all rivers rivulets, lakes, canals, streams and estuaries; and the word "person" and the word "proprietor" shall extend to the Queen's Majesty, and to all bodies politic, corporate, or collegiate; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

Interpretation
of terms.

[*S. 18 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

11 & 12 VICTORIA. A.D. 1848

CHAPTER XII.

AN ACT for the better Security of the Crown and Government of the United Kingdom.[¹] [22d April 1848.]

36 Geo. 3. c. 7.

WHEREAS by the Treason Act, 1795, it was among other things enacted, that if any person or persons whatsoever, after the day of the passing of that Act, during the natural life of his said Majesty, and until the end of the next session of Parliament after the demise of the crown, should, within the realm or without, compass, imagine, invent, devise, or intend death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of his said Majesty, his heirs or successors, or to deprive or depose him or them from the style, honour, or kingly name of the imperial crown of this realm or of any other of his said Majesty's dominions or countries, or to levy war against his said Majesty, his heirs and successors, within this realm, in order, by force or constraint, to compel him or them to change his or their measures or counsels, or in order to put any force or constraint upon or to intimidate or overawe both Houses or either House of Parliament, or to move or stir any foreigner or stranger with force to invade this realm or any other of his said Majesty's dominions or countries under the obeisance of his said Majesty, his heirs and successors, and such compassings, imaginations, inventions, devices, or intentions, or any of them, should express, utter, or declare, by publishing any printing or writing, or by any overt act or deed, being legally convicted thereof, upon the oaths of two lawful and credible witnesses, upon trial, or otherwise convicted or attainted by due course of law, then every such person or persons so as aforesaid offending should be deemed, declared, and adjudged to be a traitor and traitors, and should suffer pains of death, and also lose and forfeit as in cases of high treason: And whereas by the Treason Act, 1817, all the hereinbefore recited provisions of the Treason Act, 1795, which relate to the heirs and successors of his said Majesty, the Sovereigns of these realms, were made perpetual: . . .

57 Geo. 3. c. 6.

[S. 1 (repealing provisions of 36 Geo. 3. c. 7. and provisions of 57 Geo. 3. c. 6. relating thereto, save such of them as relate to the compassing, imagining, inventing, devising, or intending death or destruction or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of the heirs and

[¹ Short title, "The Treason Felony Act, 1848." See 55 & 56 Vict. c. 10.]

successors of his said Majesty King George the Third, and the expressing, uttering, or declaring of such compassings, imaginations, inventions, devices, or intentions, or any of them) *rep.* 38 & 39 Vict. c. 66. (S.L.R.)]

2. Such of the said recited provisions made perpetual by the Treason Act, 1817, as are not hereby repealed shall extend to and be in force in that part of the United Kingdom called Ireland.

Certain provisions of 36 Geo. 3. c. 7. extended to Ireland.

3. If any person whatsoever shall, within the United Kingdom or without, compass, imagine, invent, devise, or intend to deprive or depose our Most Gracious Lady the Queen, from the style, honour, or royal name of the imperial crown of the United Kingdom, or of any other of her Majesty's dominions and countries, or to levy war against her Majesty, within any part of the United Kingdom, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament, or to move or stir any foreigner or stranger with force to invade the United Kingdom or any other of her Majesty's dominions or countries under the obeisance of her Majesty, and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter, or declare, by publishing any printing or writing, . . . or by any overt act or deed, every person so offending shall be guilty of felony, and being convicted thereof shall be liable, . . . to be transported beyond the seas for the term of his or her natural life,

Offences herein mentioned declared to be felonies.

[S. 4 *rep.* 54 & 55 Vict. c. 67. (S.L.R.)]

5. It shall be lawful, in any indictment for any felony under this Act, to charge against the offender any number of the matters, acts, or deeds by which such compassings, imaginations, inventions, devices, or intentions as aforesaid, or any of them, shall have been expressed, uttered, or declared.

In indictments, any number of overt acts may be charged.

6. Provided always, that nothing herein contained shall lessen the force of or in any manner affect any thing enacted by the Treason Act, 1351.

Saving as to 25 Edw. 3. stat. 5. c. 2.

7. Provided also, that if the facts or matters alleged in an indictment for any felony under this Act shall amount in law to treason, such indictment shall not by reason thereof be deemed void, erroneous, or defective; and if the facts or matters proved on the trial of any person indicted for any felony under this Act shall amount in law to treason, such person shall not by reason thereof be entitled to be acquitted of such felony; but no person tried for such felony shall be afterwards prosecuted for treason upon the same facts.

Indictments for felony valid, though the facts may amount to treason.

8. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before

Punishment of principals in the second

degree and
accessories.

the fact shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any such felony shall on conviction be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Persons committed for trial in Scotland for offences under this Act not bailable, except as provided by 5 & 6 Will. 4. c. 73.

Trial to take place in terms of Scots Act of 1701.

No costs allowed in prosecutions under this Act.

9. Provided always, that no person committed for trial in Scotland for any offence under this Act shall be entitled to insist on liberation on bail, unless with consent of the public prosecutor, or by warrant of the High Court or Circuit Court of Justiciary, in such and the like manner and to the same effect as is provided by an Act passed in the session of Parliament holden in the fifth and sixth years of the reign of his Majesty King George^[1] the Fourth, intituled "An Act to provide that persons accused of forgery in Scotland shall not be entitled to bail unless in certain cases"; but the trial of any person so committed, and whether liberated on bail or not, shall in all cases be proceeded with and brought to a conclusion under the like certification and conditions as if intimation to fix a diet for trial had been made to the public prosecutor in terms of an Act passed in the Scottish Parliament in the year one thousand seven hundred and one, intituled "An Act for preventing wrongous imprisonment, and against undue delays in trials."

10. It shall not be lawful for any court before which any person shall be prosecuted or tried for any felony under this Act to order payment to the prosecutor or the witnesses of any costs which shall be incurred in preferring or prosecuting any such indictment.

[S. 11 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)

CHAPTER XIII.

AN ACT for amending the Law for the leasing of Mines in Ireland. [22d April 1848.]

[*Preamble recites* 10 *Geo.* 1. (*I.*) *c.* 5; 15 *Geo.* 2. (*I.*) *c.* 10; 23 *Geo.* 2. (*I.*) *c.* 9; 43 *Geo.* 3. *c.* 71.]

[1.] [*Part of section repealing so much of the recited Acts as limits the term of leases of mines to thirty-one years, and as fixes a minimum rent upon such leases, rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)] It shall be lawful for all and every the respective person or persons, bodies politic or corporate, empowered to make leases by the said recited Acts respectively, or by any of them, and they and every of them are hereby empowered, in like manner as in the said Acts respectively mentioned, to make

Leases of mines authorized by the said Acts may be made for 41 years, at

[¹ *Sic*: read "William."]

and grant for any term of years not exceeding forty one years any such lease or leases as is or are authorized by the said recited Acts or any of them to be made for a term not exceeding thirty-one years, or any term therein mentioned, so as every such lease be made to commence in possession, without any fine or foregift or any other consideration than the yearly rent or other return in the nature of rent in such lease or leases reserved and mentioned, and so as the best and most improved rent or other return in the nature of rent, whether in money or in kind, that can be reasonably gotten for the same, be reserved upon every such lease, and so as such rent or return in the nature of rent shall be reserved and made payable in and by every such lease to such lessor or lessors, or such other person and persons as should from time to time during the continuance of such lease have been actually entitled by law to the benefit of such mines and minerals in case the said recited Acts and this Act had not been passed, and so as in every such lease there be contained a condition for re-entry or nonpayment of the rent or return in the nature of rent to be thereby reserved, and so as every such lessee do execute a counterpart of his lease; and the several clauses and provisions of the said recited Acts now in force, and not hereby altered or repealed, shall, so far as the same are respectively applicable, and not repugnant to this Act, be construed to extend to such leases as are hereby authorized.

best improved
rent.

2. It shall be lawful for any trustee or trustees, feoffee or feoffees, for any charitable or other purposes or feme covert or infant, for any freehold estate in any such mines or minerals as aforesaid, or of any estate therein (other than a lease at rack rent) created for a term of years not exceeding fifty years unexpired, or determinable upon the fall of any life or lives, or upon the executions of any trusts mentioned in any deed or assurance creating such term, and also for any trustee or trustees of any such estate or interest who shall be in the actual possession of such mines or minerals, or the rents and profits thereof, or in receipt of the rents payable by the tenants thereof, on behalf of their respective cestuique trusts or such feme covert or infant as aforesaid, to make any lease or leases of the same, and of lands contiguous thereto, as in any of the said recited Acts specified, for any term of years not exceeding forty-one years, upon like terms and conditions as herein-before provided as to the leases hereby authorized.

Trustees, &c.
of freehold or
certain other
estates in
mines may
make leases for
41 years, upon
like terms as
herein-before
provided.

3. It shall be lawful for any of the said respective persons, bodies politic or corporate, herein-before mentioned, to accept a surrender or surrenders of any existing lease or leases made under the authority of the said recited Acts or any of them, and thereupon to make and grant a lease or leases of the same mines or minerals under the provisions of this Act.

Existing leases
under recited
Acts may be
surrendered,
and leases
granted under
this Act.

CHAPTER XXI.

AN ACT to consolidate and amend the Laws relating to Insolvent Debtors in India. [9th June 1848.]

[*Preamble recites 9 Geo. 4. c. 73; 4 & 5 Will. 4. c. 79; 9 & 10 Vict. c. 14.*]

[*S. 1, repealing recited Acts, rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Courts established under 9 Geo. 4. c. 73., for relief of insolvent debtors, continued with the same powers as heretofore.

2. The courts established under the first of the said recited Acts for the relief of insolvent debtors in the East Indies shall be continued and shall continue to be courts of record, with all the same powers as heretofore, and each shall continue to be styled "The Court for the Relief of Insolvent Debtors," and to be holden before any one judge of the supreme court of judicature at Calcutta, Madras, and Bombay respectively, within the respective limits of the said towns of Calcutta, Madras, and Bombay; and all the officers of the said courts respectively now established for the relief of insolvent debtors in the East Indies shall be, until removed under the provisions herein-after contained, the officers of the said courts hereby continued respectively; and all rules and orders not repugnant to the provisions of this Act now in force in the said courts respectively, and all tables of fees now in force therein, shall, until the same are varied or repealed, continue in force in like manner to all intents and purposes as if the Acts in force with respect to insolvent debtors before this Act comes into operation had been continued by this Act.

Times for holding courts.

3. A court for the relief of insolvent debtors shall be holden once a month at least throughout the year, and oftener if need be, in Calcutta, and so often as may be found necessary within the towns of Madras and Bombay, by any one judge of the said supreme courts of judicature respectively; and it shall be lawful for each of the said courts to sit for the despatch of business at one and the same time with the said supreme court of its presidency; and every advocate and attorney of the said supreme courts at Calcutta, Madras, and Bombay respectively shall be entitled to practise in the way of his profession in the court for the relief of insolvent debtors of that presidency, and no other persons shall practise as advocates or attornies in the said courts for the relief of insolvent debtors; and the said supreme courts of judicature respectively shall have power from time to time to make rules to regulate the proceedings of the courts hereby continued for the relief of insolvent debtors to be holden within their respective jurisdictions, and from time to time to vary and repeal, in whole or in part, any of the rules and orders and any table of fees now in force in the said courts respectively for the relief of insolvent debtors in the East Indies, and especially to provide in what manner notice shall be given to the creditors of parties applying for relief under this Act, and

Rules for proceedings, and tables of fees.

in what cases besides those mentioned in this Act costs may be awarded, and shall prepare and cause to be sealed with their respective seals a sufficient and proper list of fees to be charged and received by the officers of the said courts for the relief of insolvent debtors of their respective presidencies, and shall certify under their seals, and transmit to the President of the Board of Commissioners for the Affairs of India, copies of such rules and lists of fees, to be laid before her Majesty for her royal approbation, correction, or revision; and other copies of the same shall at all times be fixed in conspicuous places in the courts for the relief of insolvent debtors; and no other fee or gratuity shall be received or taken by any officer or attorney of such last-mentioned courts, on any pretence whatsoever, except such as shall be specified in such lists.

4. Her Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively shall have power from time to time to remove any of the officers of the courts hereby continued as the courts for the relief of insolvent debtors within their respective presidencies, and to make such reductions in the number and in the emoluments of such officers as may be practicable, and to them shall seem fit, and from time to time to appoint such persons as may be necessary to transact the business of such courts, and from time to time to annul all or any of such appointments, and to reduce the number of such officers in case the number of the same may be conveniently reduced; and each of the said courts hereby continued shall cause to be sealed with the seal of the said court all such records, proceedings, documents, and copies of the same as are hereinafter expressly required to be so sealed, and such other records, proceedings, documents, and copies of the same, as the said court shall at any time direct; and the said courts respectively may adjourn any of their sittings from time to time, and to such time as may be requisite, and shall have power to administer oaths, or, in the case of such persons as shall object on the ground of any religious or conscientious scruples to take an oath, solemn affirmations, and shall examine all parties and witnesses upon oath or such solemn affirmation for the purposes of this Act; and the said courts respectively shall have the like powers of issuing commissions to take evidence as now are or may be hereafter possessed by the supreme courts respectively of their several presidencies, and shall have the like powers of compelling the attendance of the insolvent and all other parties at all times when their attendance may be deemed requisite by the said court, and of all witnesses or any other persons who may be able to give any information respecting the debts, estates, and effects of such insolvent, before the said courts respectively, or before any officer of the said courts respectively, and of requiring and compelling the production of books, papers, and writings, as now are or may hereafter be possessed by the supreme courts respectively of the respective presidencies, or as are given to

Appointment
and emolu-
ments of
officers.

Records, &c.
to be sealed
with the seal of
the court.

Power to court
to adjourn
sittings, admi-
nister oaths, &c.

Powers of
Courts as to
witnesses and
evidence.

commissioners of bankrupts by an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend the laws relating to bankrupts", and each of the said courts hereby continued for the relief of insolvent debtors shall have power to order any prisoner whose estate shall be vested in any assignee under the provisions of this Act, or of any of the Acts herein-before referred to, or any prisoner who shall be a necessary and material witness in any matter pending in the said court, to be brought before the said court or officer as often as shall be requisite, which order alone shall be a sufficient authority and protection to the gaoler or officer or person in whose custody he may be for the production of such prisoner; and each of the said courts shall have the power of fining in a summary way, and of committing until such fine be paid, or of committing in the first instance without fining, all persons guilty of contempt of the said court, and of fining in a summary way, and of removing, any of the officers of the said courts who shall be guilty of negligence, wilful or unnecessary delay, or other misconduct: Provided always, that the said courts for the relief of insolvent debtors shall not have the power of awarding costs against any person, except in cases in which it is expressly permitted by this Act, or in which it shall be expressly permitted by any rules which shall be made by the said supreme courts respectively as to costs to be awarded in the said courts for the relief of insolvent debtors respectively.

6 Geo. 4. c. 16.

Power to courts to order prisoners to be brought up as often as requisite;

and to fine and commit persons guilty of contempt; and to fine and remove officers.

Costs.

Persons imprisoned for debts or in insolvent circumstances, may petition the court for relief according to the forms in the schedules (A.) or (B.) to this Act.

5. Any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, upon any process whatsoever, for or by reason of any debt, damages, costs, or money which such person is solely or jointly with any other liable to pay, or for or by reason of any contempt of any court whatsoever for nonpayment of money only, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, or in any manner in consequence of or by reason of such contempt, or who shall reside within the jurisdiction of any of the supreme courts at Calcutta, Madras, and Bombay respectively, and, being indebted on account of any such liability as aforesaid, shall be in insolvent circumstances, may at any time apply by petition to the court for the relief of insolvent debtors within the presidency where such insolvent debtor shall then be, for the benefit of the provisions of this Act, which petition may be in the form in the schedule (A.) to this Act, or the schedule (B.) to this Act, (as the case may require,) with such additions and variations as may be necessary to adapt it to the particular case; and such petition shall be subscribed by the said prisoner, and shall forthwith be filed in the said court to which it shall be presented; and if any such person as aforesaid shall be jointly indebted, it shall be lawful for them to apply jointly by petition, in such manner as is herein-before mentioned, and under such

joint petition the joint estate and the separate estates of such petitioners shall be dealt with and distributed.

6. Where any such petition for relief as is aforesaid shall be presented by any such insolvent to the said court for the relief of insolvent debtors, the party presenting the petition, at the same time, or within such further time as the said court may deem reasonable, shall deliver into the court a schedule in the form in the schedule (C.) to this Act annexed, with such additions and variations as may be necessary to adapt it to the particular case, containing a full and true description as to all matters and things required to be set forth therein, so far as the same can be described or set forth; and the said schedule shall be subscribed by such petitioner, and shall forthwith be filed in the said court.

Party petition-
ing to deliver
in a schedule
in the form in
schedule (C.)

7. Upon the filing of any such petition as is aforesaid it shall be lawful for the said court, and the said court is hereby authorized and required, to order that all the real and personal estate and effects of such petitioner, whether within the territories within the limits of the charter of the East India Company or without, except the wearing apparel, bedding, and other such necessaries of such petitioner and his family, and the working tools and implements of such petitioner and his family, not exceeding in the whole the value of Company's rupees three hundred for each petitioner with his family, and all debts due to him, and all the future estate, right, title, interest, and trust of the said petitioner in or to any real or personal estate or effects within or without the said territories which such petitioner may purchase, or which may revert, descend, be devised or bequeathed, or come to him, and all debts growing due to him before the court shall have made its order in the nature of a certificate as herein-after mentioned, do vest in the official assignee for the time being of the said court, and that all books, papers, deeds, and writings in any way relating to such petitioner's estate and effects in his possession, or under his custody or control, shall be deposited with such assignee; and such order shall be entered of record in the said court, and such notice thereof shall be published as the said court shall direct; and such order, when so made, shall by virtue of this Act relate back to and take effect from the filing of the said petition, and shall instantly, and without any conveyance or assignment, vest all the real and personal estate, effects, and debts as aforesaid in the said official assignee, who shall have full powers for the recovery thereof, and shall hold and stand possessed of the same for the purposes and in manner hereinafter mentioned: Provided always, that, in case after the making of any such vesting order the petition of any such petitioner shall be dismissed by the said court, such vesting order made in pursuance of such petition shall from and after such dismissal be null and void to all intents and purposes: Provided also, that in case any such vesting order as aforesaid shall become null and void by the dismissal of such petition, all

Upon filing of
petition, court
may order
the real and
personal estate
of petitioner to
be vested in
official assignee
as court shall
direct.

Order to relate
back to filing
of petition.

In case petition
be dismissed,
vesting order
to be null and
void; but all
acts done by
any assignee,
&c. under this
Act to be held
valid.

acts theretofore done by any assignee or other person acting under his authority according to the provisions of this Act shall be good and valid, and no action or suit shall be commenced against any such assignee, nor against any person duly acting under his authority, except to recover any property of such petitioner detained after an order made by the said court for the delivery thereof, and demand made thereupon; . . .

Lying in prison
21 days for
debt shall be
deemed an act
of insolvency,
on which
creditor may
petition in form
No. 1 in
schedule (D.)

8. If any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, charged in execution for any debt or damages, or any costs or sum or sums of money, or committed for or by reason of any contempt of any court whatsoever for nonpayment of money, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, or in any manner in consequence or by reason of such contempt, shall not, within twenty-one days next after such prisoner shall have been so charged in execution or committed as aforesaid, make satisfaction to the creditor or creditors at whose suit such prisoner shall have been so charged in execution or committed for such debt, damages, costs, sum or sums of money, or to the person or persons entitled to the money for nonpayment of which such prisoner shall have been in contempt, or to the payment of which such prisoner would be liable in consequence or by reason of such contempt, then and in any of the said cases it shall be lawful for any such creditor or creditors or person or persons entitled to such money as aforesaid to present a petition to the court for the relief of insolvent debtors of the presidency within which such person shall have been so imprisoned, which petition may be in the form No. 1 in the schedule (D.) to this Act annexed, with such additions or variations as may be necessary to adapt it to the particular case; whereupon, and upon such petition being duly verified, it shall be lawful for the court to adjudge that such prisoner has committed an act of insolvency: Provided always, that it shall be lawful for the said court, upon the petition of any person adjudged to have committed an act of insolvency as aforesaid, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been made, to revoke or confirm such adjudication.

Adjudication
on petition.

Petitions on
acts of in-
solvency by
traders.
6 Geo. 4. c. 16.
5 & 6 Vict.
c. 122., &c.

9. If any person who, by an Act passed in the sixth year of the reign of King George the Fourth, intituled "An Act to amend the laws relating to bankrupts," or an Act passed in the session held in the fifth and sixth years of the reign of her present Majesty, intituled "An Act for the amendment of the law of bankruptcy," or any other Act now in force or hereafter to be passed, would be deemed a trader liable to become bankrupt, having been arrested or committed to prison for debt, or for or by reason of any contempt of any court whatsoever, for nonpayment of money only, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, shall upon such or

any other arrest or commitment for debt or nonpayment of money or costs as aforesaid lie in prison twenty-one days, or having been arrested or committed to prison for any other cause shall be in prison for twenty-one days after any detainer for debt, nonpayment of money or costs as aforesaid, lodged against him and not discharged, or if any such person shall depart from within the limits of the jurisdiction of any of the said supreme courts with intent to defeat or delay his creditors, or with the like intent depart from his usual place of business or abode within the said jurisdiction, or make with like intent any fraudulent gift, grant, conveyance, delivery, or transfer of any of his lands, tenements, money, goods, or chattels, or fraudulently with like intent suffer his lands, money, goods, or chattels to be taken in execution, attached, or sequestered, it shall be lawful for any person being a creditor, or for two or more persons being partners in trade and creditors to the amount of Company's rupees five hundred, or for any two creditors to whom such person shall be indebted to the amount of seven hundred Company's rupees, or for any three or more creditors to whom such person shall be indebted to the amount of Company's rupees one thousand, to present a petition to the court for the relief of insolvent debtors of the presidency within which such person shall have been so imprisoned or have resided at the time of such departure, or of such fraudulent gift, grant, conveyance, delivery, transfer, or fraudulent execution, attachment, or sequestration, which petition may be in the form No. 2 in the schedule (D.) to this Act annexed, with such additions and variations as may be necessary to adapt it to the particular case; whereupon, and upon such petition being duly verified, it shall be lawful for the court to adjudge that such person has committed an act of insolvency: Provided always, that it shall be lawful for the said court, upon the petition of any person adjudged to have committed an act of insolvency as aforesaid, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been made, to revoke or confirm such adjudication.

Adjudication
on petition.

10. Every person who shall have given credit to any trader upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such trader committed any act of insolvency within the meaning of this Act, may so petition or join in petitioning as is aforesaid, whether he shall have had any security for such sum or not.

Creditor whose
demand at the
time of act of
insolvency is
not then due
may petition or
join in petition.

11. Upon any adjudication being made as herein-before is mentioned the said court is hereby authorized and required to make the like vesting order as herein-before is authorized to be made in the case of a petition by an insolvent debtor, which said vesting order shall in like manner be entered of record and notified as is herein-before mentioned, and shall, when made, take effect by relation from the filing of the petition on which

On adjudica-
tion of act
of insolvency,
vesting order to
be made and
take effect, and
to be void if
adjudication is
revoked, as

where the petition is presented by the insolvent.

the adjudication shall have proceeded; and such order shall, when made, vest in like manner all the said estate and effects, right, title, and interest, trust and debts of the insolvent in the official assignee, in like manner, and as fully, and with the like effect, as is herein-before mentioned, and which said vesting order shall, in case of the adjudication being for any reason revoked, be thenceforth null and void, to all intents and purposes, in like manner, and with the like effect, and under the same qualifications, as herein-before is mentioned.

Court on such adjudication shall direct insolvent to file a schedule in form in schedule (C.)

12. Provided always, that after the adjudication of an act of insolvency in any of the cases aforesaid, it shall be lawful for the court to direct, and it is hereby required to direct, the insolvent to file, within a time to be named by the court, and the said insolvent is hereby directed and required to file accordingly, a schedule in the form in schedule (C.) to this Act annexed, in the court by which such adjudication shall have been pronounced; and the court shall be at liberty to proceed thereupon in like manner as in the case of an insolvent presenting a petition for relief under this Act.

Interim order for protection of insolvent.

13. In any case where a petition shall have been presented by an insolvent debtor as aforesaid, or an act of insolvency shall have been adjudged to have been committed as aforesaid, it shall be lawful for the said court, after the filing of the schedule required by this Act, if under the circumstances it shall appear proper, to make an interim order for the protection of the insolvent from arrest, and any such interim order may apply either to all the debts and liabilities mentioned in the said schedule, or to any of them, as the court may think proper, and may commence and take effect at such time as the court shall direct; and any such order may be recalled, and may be renewed, as to the court may appear proper; and any such order, when so made, shall protect the person to whom it shall be given from being arrested or detained in prison for any debt or liability to which such order shall apply within the limits of the towns of Calcutta, Madras, and Bombay respectively, or any other place within the territories under the government of the East India Company; and any person arrested or detained contrary to the tenor and effect of any such order shall be entitled to his discharge out of custody, upon application to any court or judge which or who shall have power to set at large persons illegally detained in custody under the process by virtue of which such person shall have been arrested or be so detained: Provided always, that no such order shall operate as a release or satisfaction of the debt or demand of any creditor, nor prejudice the right of any such creditor to arrest the insolvent, whether he shall or not have been previously arrested for the same debt or demand, in case the order shall be recalled, or shall fall by reason of the petition of the insolvent being dismissed, or the adjudication being reversed.

Order not to operate as a release, or prevent arrest if order be recalled or fall by petition being dismissed or adjudication annulled.

14. There shall be appointed by the chief justice of the supreme court at each of the said presidencies, or in the case of any vacancy in the office of chief justice then by the senior judge for the time being of such court, one person to each court for the relief of insolvent debtors in each of the said presidencies respectively, to be the official assignee in all insolvencies . . . prosecuted in the said court; and every such official assignee shall at all times be, by virtue of such his appointment, and without any other assignment, an assignee of every such insolvent's estate and effects, together with any other assignee or assignees, or solely, according as there may or may not be then or afterwards any other assignee or assignees of such estate or effects.

Judges of supreme courts to appoint an official assignee for each court.

15. Every such official assignee shall give such security, and be subject to such rules, and shall act in such manner, as the judges of the supreme court shall direct by any rules and orders of the said court, to be approved of by the Governor General of India in council, and to be transmitted to the President of the Board of Commissioners for the Affairs of India, to be laid before her Majesty for her royal approbation, correction, or revision; and all the moveable estate and effects, and the rents and profits of all immoveable estate, and the proceeds of sale of all the estate and effects of the insolvent, shall in every case be possessed and received by such official assignee alone, save where it shall be expressly directed by the court for the relief of insolvent debtors to be possessed and received by such official assignee and the special assignee or assignees (if any), which the said court shall have power, if it think fit, to direct, and in all cases of such receipt and possession shall, within seven days, be paid, delivered, or transferred by such official assignee or such official assignee and other assignee or assignees as aforesaid to and be kept in deposit in such public bank or other safe place of deposit, and be managed and dealt with, as the judges of the supreme court shall have directed or may direct by any rules or orders of the said court, to be approved of by the Governor General in council, and to be transmitted for approbation, correction, or revision, in manner aforesaid.

Official assignees to give security, and be subject to rules.

Insolvents' estates to be received by official assignee alone, except when directed by the court to be received by official and special assignees.

16. . . . upon the death, resignation, or removal from office of each such official assignee, another official assignee shall be appointed in his place, in the like manner as upon the first of each of such appointments.

Appointment of official assignees on vacancies.

17. At any time after the making of any such vesting order as aforesaid, or after any such adjudication of insolvency as aforesaid, if any creditor or creditors of any such insolvent trader as aforesaid shall be desirous that an assignee or assignees of the insolvent's estate and effects shall be chosen by the creditors, he or they shall be at liberty to apply in writing, by petition to the court, that such election shall take place; and thereupon a time and place for such election shall be appointed

On application of creditors, after vesting orders, &c. court may order an election of special assignees by the creditors.

by the court; and all creditors whose debts amount to one hundred rupees and upwards, who shall be included in the schedule as creditors, or who shall have proved their debts, shall be entitled to vote in such choice, and the choice shall be made by the major part in value of the creditors so entitled to vote; and the person or persons so elected shall be appointed by the court a special assignee or special assignees of the estate of the said insolvent; provided that any creditor shall be at liberty to give notice to any other person whose name is included in the schedule of the insolvent as a creditor, but who shall not have proved his debt, to prove his debt before he shall be admitted to vote on such election, and in such case such party shall not be entitled to vote until he shall have proved his debt.

Power of court to remove assignees.

Thereupon, or on death of assignees, others to be appointed.

New special assignees not to be elected except on petition of creditors.

18. The court may at any time, in case of the unwillingness to act, removal from out of the jurisdiction of the court, incapacity, or misconduct, of any official assignee, or of any assignee appointed by the court on the election of the creditors, or for any other cause appearing to the court sufficient, by its order annul such appointment, and thereupon, or in the case of the death of any such official assignee or other assignee, another shall be appointed; provided that if it be the case of a chosen assignee such appointment shall not be made unless some creditor or creditors shall apply in writing, by petition to the said court, that an election of another person as assignee may be had, and thereupon the court shall proceed in all respects in like manner, and such election shall be made, conducted, and declared in all respects in like manner, as is herein-before directed as to the election of assignees by creditors; and no act or thing done prior to the order whereby such appointment is so vacated shall be annulled or in any way affected.

No remuneration to be received by assignee, except as herein provided.

19. No remuneration whatever, whether in the shape of commission or otherwise, shall be received by any assignee, except in the manner nor beyond the extent herein-after allowed; (that is to say,) the court may allow a fair remuneration to the assignee or assignees out of the sum to be distributed as dividends, and make an order accordingly: Provided always, that the court shall not have power to order any remuneration to be made to any assignee or assignees chosen by the creditors, unless the creditors shall at the time of the election declare that some remuneration is to be made to the assignee or assignees chosen by them, and at what rate such remuneration is to be made, and in such case the court shall have power to reduce, but not to increase, the amount of such last-mentioned remuneration.

Estate, and books, papers, &c. to vest without conveyance or assignment, in new assignee.

20. On every appointment of a new assignee the estate, effects, rights, and powers which would otherwise remain or be in the former assignee or assignees shall immediately, by virtue in such appointment, and without any conveyance or assignment of any case whatever, vest in the actual assignee or assignees, in

trust for the benefit of the creditors of such insolvent, in respect of and in proportion to their respective debts, according to the provisions of this Act; and all books, papers, deeds, and writings in any way relating to the estate and effects of the insolvent shall be transferred to and deposited with such assignee or assignees as last aforesaid, and from time to time, on each change of assignees, shall be transferred to the possession of the assignee or assignees for the time being of such insolvent; and the court shall have power to compel any assignee or assignees whose appointment may be vacated, or the heirs, executors, administrators, or assigns of any person once appointed such assignee and deceased, to account for and deliver up all such estates and effects, books, papers, writings, deeds, and all other evidences relating thereto, as shall have come to his or their hands, and the decision of the court thereupon shall be final and conclusive; and whenever any assignee shall die, or be removed from his office, and any other assignee or assignees shall be appointed as aforesaid, no action at law or suit in equity brought or defended by him or them in the character of assignee or assignees shall be thereby abated, but upon the suggestion of each such death, removal, or new appointment, such action or suit shall be prosecuted or defended in the name of the existing assignee or assignees; and any real and personal estate, money and effects, vested in or possessed by any official assignee shall not remain in him, if he shall resign or be removed from his office, nor in his heirs, executors, or administrators, in case of his death, but shall in every such case go to and be vested in his successor in office, by relation, from the time of his resignation, removal, or death, as the case may be; and every such appointment of any assignee other than the official assignee shall be entered of record of the said court, and such notice thereof shall be published as the said court shall direct, and every such assignee so appointed shall be liable to the control of the court, in like manner as any officer of the said court.

Delivery thereof may be enforced.

Actions, &c. not to abate by death, &c. of assignee.

21. Every such assignee as aforesaid shall with all convenient speed take possession, by himself, or by means of messengers of the court, or by other fit and proper persons, of all the real and personal estate and effects of the insolvent of which immediate possession may be obtained, and shall use his best endeavours to seize, obtain, recover, and reduce into possession, as speedily as possible, the rest of such estate and effects, and all debts, claims, and choses in action, which by virtue of his appointment under this Act, and of the vesting order or adjudication aforesaid, he shall have been empowered to obtain, recover, and get in.

Assignees to take possession of and realize estates.

22. After any such vesting order shall be made as aforesaid no distress for rent due before such vesting order shall be made upon the goods and effects of the insolvent; but the landlord or party to whom the rent should be due shall be entitled to prove, in respect of such rent so due as aforesaid, whether the same

After vesting order, no distress for rent previously due shall be made, but landlord shall be entitled

to prove for
the amount.

shall or not be inserted in the schedule of the insolvent, and to receive a dividend in respect of the said rent, and shall not, unless the petition of such insolvent be dismissed, or the adjudication be reversed, be entitled to distrain for the said rent.

Property in
the order and
disposition of
insolvent.

23. If any such insolvent shall, at the time of filing his petition, or at the time of filing the petition on which an adjudication of insolvency shall be made, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or chattels whereof such insolvent is reputed owner, or whereof he has taken upon him the sale, alteration, or disposition, as owner, the same shall be deemed to be the property of such insolvent, so as to become vested in the official assignee of the court by the order made in pursuance of this Act; provided that no assignment or transfer of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of any Act or Acts of Parliament now in force or hereafter to be passed for the registering of British vessels, shall be invalidated or affected by reason of such possession, order, or disposition of the same as aforesaid.

Mortgages of
ships or ves-
sels, or shares
thereof, duly
registered, not
to be invali-
dated or
affected.

Fraudulent
conveyances,
&c. made by
insolvent
within two
months before
insolvency, to
be void.

24. If any insolvent who shall file his petition for his discharge under this Act, or who shall be adjudged to have committed an act of insolvency, shall voluntarily convey, assign, transfer, charge, deliver, or make over any estate, real or personal, security for money, bond, bill, note, money, property, goods, or effects whatsoever, to any creditor, or to any other person in trust for or to or for the use benefit, and advantage of any creditor, every such conveyance, assignment, transfer, charge, delivery, and making over, if made when in insolvent circumstances, and within two months before the date of the petition of such insolvent, or of the petition on which an adjudication of insolvency may have proceeded, as the case may be or if made with the view or intention, by the party so conveying, assigning, transferring, charging, delivering or making over, of petitioning the said court for his discharge from custody under this Act, or of committing an act of insolvency, shall be deemed and is hereby declared to be fraudulent and void as against the assignees of such insolvent.

Government
stocks, funds,
&c. standing
in name of
insolvent to be
transferred
to name of
assignee.

25. If any such insolvent as aforesaid shall, at any time before he shall have obtained his discharge in the nature of a certificate herein-after mentioned, be entitled to or possessed of, in his own right, any government stock, funds, or annuities, or any of the stocks or shares in any public company, either in England, Scotland, or Ireland, or the territories under the government of the East India Company, it shall be lawful for the said court, upon the application of any assignee, or any creditor of such insolvent whose debt or demand against such insolvent shall have been admitted or established in the matter of the said insolvency, whenever it shall deem fit so to do, to order

all persons whose act or consent is thereto necessary to transfer the same into the name or names of such assignee or assignees as aforesaid; and all such persons whose act or consent is so necessary as aforesaid are hereby indemnified for all things done or permitted pursuant to such order: Provided always, that in all transfers into the name or names of any such assignee or assignees the transferee or transferees shall be described as assignee or assignees of the estate and effects of the insolvent; and no dividend shall be paid to, nor any future transfer made by, any person of any such stock, funds, annuities, or shares, except under a power of attorney, in the usual form required for the receipt of dividends upon or transfer of such stock, funds, annuities, and shares respectively, duly executed by such assignee or assignees, and attested by two credible witnesses, one of whom shall be an officer of such court for relief of insolvent debtors, and to which attestation the seal of such court shall be affixed.

26. In case any person shall, after any such insolvent shall have petitioned for his discharge under this Act, or have been adjudged to have committed an act of insolvency, and before the said insolvent shall have obtained his discharge in the nature of a certificate as herein-after mentioned, be possessed of or have under his power or control any property whatsoever of such insolvent, other than any such government stock, funds, or annuities as aforesaid, or other than any of the stock or shares in any public company, either in England, Scotland, or Ireland, or within the limits aforesaid, or to which such insolvent may be in any way entitled, either under any trust, express or implied, or otherwise held for his use and benefit, or in case any such person shall be at any such period indebted to such insolvent, it shall be lawful for the said court, upon the application of any assignee, or any creditor of such insolvent whose debt or demand shall have been admitted or established in the matter of the said insolvency, to cause notice to be given to such person, directing him to hold and retain the said property till the said court shall make further order concerning the same; and thereupon it shall be lawful for the said court further to order such person to deliver over such property, and to pay such debts as aforesaid, or any part thereof, to the assignee or assignees of the estate and effects of such insolvent, for the general benefit of the creditors of such insolvent; and such delivery and payment shall be made accordingly in obedience to such order and such person shall by such payment and delivery, so made in pursuance of such order of the said court, be discharged in respect of such property and debts against all persons whatsoever, to all intents and purposes.

27. If any such insolvent as aforesaid shall, at any time before he shall obtain his discharge in the nature of a certificate as herein-after mentioned, hold any public office, appointment, or benefice, civil, military, or ecclesiastical, not saleable, or shall

Persons holding property of insolvent, &c. may be ordered to transfer such property, and make payment of such debts, to the assignee.

If insolvent hold any offices, &c. not saleable, he may be ordered

to pay a proportion of receipts to assignee.

Saleable offices shall vest in assignee.

Power of assignee to take composition, and to submit disputes to arbitration.

Powers of assignee to institute and defend actions and suits.

Provision as to partnership.

All powers vested in insolvent, to be vested in assignee.

Sale of insolvent's estate.

be in any situation or employment whatsoever in respect of which he shall receive any salary or emolument, or shall be in the receipt of any pension, then it shall be lawful for the said court to order the said insolvent to pay such proportion of his receipts therefrom to his assignee as the said court shall think right; and all saleable offices, appointments, or benefices shall vest, by virtue of the vesting order as aforesaid, in the official assignee, in trust for the creditors of such insolvent as aforesaid.

28. It shall be lawful for the assignee or assignees, with the leave of the court first obtained, upon application to such court, and by and with such notice to such creditors as it shall think fit to direct, to take such reasonable part of any debts due to the insolvent as may by composition be gotten, in full discharge of such debts, and to submit to arbitration any difference or dispute between the assignee or assignees and any other person or persons for or on account or by reason of any thing relating to the estate and effects of such insolvent.

29. It shall be lawful for the assignee or assignees, with leave of the court first obtained, to commence, prosecute, or defend any suits or actions at law or in equity which the insolvent might have commenced and prosecuted or defended, and to defray the costs to which he may be put in respect of such suits or actions out of the proceeds of the estate and effects of the insolvent; and if there be any partner of the insolvent who hath not joined in the petition, it shall be lawful for the court to authorize the assignee to join such partner with himself as plaintiff in such suit or action; and if such partner shall execute any release of the debt or demand for which such suit or action is brought, the release shall be void: Provided always, that such partner, if he shall take no part in the prosecution or defence of such suit or action, shall not be liable to pay costs in respect of the same; and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action or suit as the said court shall direct.

30. All powers vested in any such insolvent which he might lawfully execute for his benefit shall be and are hereby vested in the assignee or assignees of the real and personal estate of such insolvent or insolvents by virtue of this Act, to be executed by his assignee or assignees for the benefit of his creditors.

31. The assignee or assignees shall, with all convenient speed, make sale of the property and effects of the insolvent: Provided nevertheless, that the said court shall have full power and authority, upon the application of any insolvent, or any creditor or mortgagee of such insolvent, to delay or postpone the sale of any property, and to make such other order respecting the same as to such court shall seem meet.

32. And whereas insolvents may be entitled to annuities for their own lives, or other uncertain interests, or to reversionary

or contingent interests, or may have made advances of money for the cultivation of lands, or may be interested in property in other ways under such circumstances that an immediate sale and payment of their debts may be very prejudicial to them and to their creditors, and it may be proper in some cases to defer the sale of their property, or some parts thereof, and to put it under temporary management, or to authorize the raising of money by way of mortgage or otherwise for payment of the debts or part of the debts of an insolvent, and for defraying the expenses attending the execution of this Act, instead of selling for such purpose: Be it enacted, that in all such cases it shall be lawful for the said courts for the relief of insolvent debtors at any time to take into consideration all circumstances affecting any property of the insolvent which shall have been vested under the provisions of this Act; and if it shall appear to any court that it would be reasonable to make any special order touching the same, it shall be lawful for such court so to do, and to direct that so much of the said property as it may be expedient not to sell immediately according to the provisions of this Act shall not be so sold, and from time to time to order and direct in what manner such property shall be managed for the benefit of the creditors of such insolvent, until the same can be properly sold, or until payment of such creditors be effected according to the provisions of this Act, and to make such order touching the sale or disposition or management of such property as to such court for relief of insolvent debtors may seem reasonable and beneficial, and upon such terms and conditions with respect to the allowance of interest on debts not bearing interest, or other circumstances, as to such court shall seem just; and if it shall appear that the debts of any such insolvent can be discharged by means of money raised by way of mortgage or otherwise on any of the said property of the said insolvent, instead of raising the same by sale, it shall be lawful for the said court so to order, and to give all necessary directions for such purpose, and generally to direct all things which may be proper for the discharge of the debts of such insolvent in such manner as may be most consistent with the interest of such insolvent and of his creditors.

Discretionary power vested in the court to defer sales, and give directions for management property;

also for raising money by way of mortgage to pay debts, or for otherwise discharging debts.

33. The assignee or assignees shall keep accounts of the property, debts, and credits of such insolvent, whether separate or joint, and of all property of the insolvent received by him or them, and all payments made by him or them, which accounts any creditor shall be at liberty to inspect at all seasonable times; and it shall be lawful for the courts for the relief of insolvent debtors to summon the assignee or assignees before them, and require him or them to produce all books, papers, deeds, writings, and other documents, in his or their possession, relating to the matters of such insolvency; and upon his or their default it shall be lawful for such courts respectively to issue an attachment or attachments against the party or parties so making default, and

Assignees to keep accounts of the estates of insolvents, with liberty for creditors to inspect the same.

Assignees may be ordered to produce books, &c. and committed for refusal.

to cause such assignee or assignees to be brought before them, and to commit such assignee or assignees to prison until he or they shall submit to the court by which he or they shall have been summoned.

Penalty on assignee improperly dealing with insolvent's estate.

34. If any assignee shall knowingly retain in his hands, for his own benefit, or employ for his own benefit, or knowingly permit any co-assignee so to retain or employ any sum, part of the estate of the insolvent, or shall knowingly omit to invest or pay or deposit any money or other property in the manner in which it may be his duty for the time being, according to law, to invest, pay, or deposit the same, every such assignee shall, besides being liable to be removed therefor from his office of assignee for misconduct, be liable to be charged in his accounts with such sum as shall be equal to interest at the rate of twelve per centum per annum on the amount or value of such money or property, or if any higher interest shall have in fact been made, then to the extent of the interest actually made, and five per centum per annum in addition thereto on all such money or property, for the time during which he shall have so retained or employed the same, or permitted the same to be so retained or employed as aforesaid, or during which he shall have so neglected to invest or deposit the same as aforesaid; and the court is hereby required to charge every such assignee in his accounts accordingly, and the amount so charged shall constitute a debt from him to such estate; and if any assignee indebted to the estate of which he is such assignee in respect of money so retained or employed by him as aforesaid become insolvent, his discharge under the provisions of this Act shall only have the effect of freeing his person from arrest and imprisonment on account of such debt; but his future effects, excepting the wearing apparel, bedding, and other herein-before mentioned articles excepted out of the operation of the vesting order aforesaid, and not exceeding the value herein-before limited in that behalf, shall remain liable for so much of his debts to the estate of which he was assignee as shall not be paid by dividends under such insolvency, together with legal interest for the whole amount.

If assignee indebted to estate become insolvent, his discharge shall not free him from liability to pay the whole debt and interest out of his future effects.

After petition and schedule filed, and adjudication, notice to be given to creditors, and published.

Court in such notice to appoint a day for hearing.

35. After the petition and schedule of any insolvent shall have been filed in any court for the relief of insolvent debtors, and after any such adjudication of an act of insolvency shall have been pronounced as aforesaid, the court shall cause notice thereof to be given to any creditor or creditors of the insolvent at whose suit he may be detained in custody, or the attorney or agent of such creditor or creditors, and to the other creditors resident within the limits of the territories of the East India Company, as the court shall direct; and notice to the like effect shall be twice at least published in the gazette of the presidency where such court shall be holden; and the court in such notice shall appoint a day and place for the hearing of the matters of the petition of such insolvent, and for hearing any other applications in the matter of the insolvency.

36. Upon the day so appointed by the court as aforesaid for such hearing as aforesaid or on any future day to which such hearing may be adjourned, it shall be lawful for the insolvent and for any creditor of the insolvent, as the case may require, to be heard, either by himself or by counsel, in support of or in opposition to the petition of the insolvent, or on any other application relating to the insolvent or his estate; and it shall also be lawful for the court, on those or any other occasions, and from time to time as often as the occasion may require, to order any insolvent who is in custody to be brought before it, and to summon any insolvent who shall not be in custody, and the wife of any insolvent, and any other person, whether a creditor or not, who may be known or suspected to have any of the estate or effects of the insolvent in his or her possession, or any person who may be suspected to be indebted to the insolvent, or any person who is believed to be capable of giving any information respecting the estate and effects of such insolvent, or respecting his acts, dealings, or conduct, or any information which will more easily enable the court to dispose of the estate and effects of the insolvent for the benefit of his creditors; and it shall also be lawful for the court to examine any insolvent or his wife, or any other such person, whether a creditor or not, in the same way as any other witnesses are examined in her Majesty's supreme court at that presidency in any suits at law or in equity, or according to any rules which may be made for the practice of the said courts for the relief of insolvent debtors respectively, or for giving effect to this Act, in the manner which is herein prescribed: Provided always, that every witness summoned to attend before the court shall have his necessary expenses tendered to him, in like manner as by law is required upon service of a subpoena to a witness in an action at law.

Course of proceeding on hearing.

Court may order insolvent and others to attend and be examined.

Expenses of witnesses.

37. Provided also, that in all cases where any creditor or other person shall be prevented or hindered from attending the said court, by reason of sickness or infirmity, or the distance of his residence, or other reasonable cause, to be admitted by the court, it shall be lawful for the court to receive the affidavit or solemn affirmation of such creditor or other person, and also, if the court shall think fit, to permit interrogatories to be filed for the examination or cross-examination of any such person.

Evidence in case of sickness, &c.

38. When any petition shall have been presented under this Act by an insolvent, or any adjudication of an act of insolvency shall have been pronounced as aforesaid, it shall be lawful for any person to whom any such insolvent shall be indebted or liable in respect of any debt or demand which would have entitled such person to be inserted as a creditor in the schedule of such insolvent to make claim upon the estate of such insolvent, and to prove his debt or demand, whether due by such insolvent solely, or jointly with any other person or persons; and

Creditor whose name is not included in the schedule may prove.

such person shall be entitled to and receive a dividend thereon rateably with the other creditors of the said insolvent, although the name of such creditor may have been wholly omitted by the said insolvent in his or her schedule, or may have been inserted for a smaller amount than the debt or demand really due to such person; and where any objection to the existence or amount of such debt or demand shall be made by such insolvent, or any creditor, such court shall hear the same, and may make such order thereon as may seem meet and just.

Mutual demands may be set off.

39. When there has been mutual credit given to the insolvent and any other person or persons, one debt or demand may be set against the other.

All debts, &c. proveable under 6 Geo. 4. c. 16., &c. may be proved under insolvency.

40. All such debts, dues, and claims as might be proved under a fiat of bankruptcy bearing even date with the insolvent's petition or the adjudication (as the case may be), according to the provisions of the said Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend the law relating to bankrupts," or any other statute or statutes now in force or hereafter to be passed relating to bankrupts, may also be proved as is herein-before mentioned, in the same manner and subject to the like deductions, conditions, and provisions as in the said statutes are or may be set forth and prescribed.

Power to court to appoint days for purpose of making dividends.

41. Whenever it shall appear to the court, either by the accounts of any assignee or assignees, or otherwise, to be probable that a dividend may be beneficially made amongst the creditors, it shall be lawful for the court to appoint a day for the purpose of making a dividend, and to cause notice thereof to be given in such manner as it shall direct; and on the day appointed the assignee or assignees shall deliver in, upon oath or solemn affirmation, as the case may be, a true statement in writing of all money received by him or by them respectively, and when, and on what account, and how, the same have been employed; and the court shall examine such statement, and compare the receipts with the payments, and shall ascertain what balances, if any, have been from time to time in the hands of such assignee or assignees respectively; and on the said day all parties interested shall be heard, and all objections to the schedule of the insolvent, and to the accounts or conduct of the assignee or assignees; and any claims of any creditors which shall not have been previously determined shall be heard and determined either by such court immediately, or on a reference to the examiner or other officer of the court; and it shall be lawful for the court to examine the insolvent, the assignees, and any witnesses, either on oath or affirmation, and either at that time to declare a dividend, and to direct that the same shall be paid by the assignee or assignees, or to postpone such declaration

or direction of the same until a further hearing, and to make such order as shall be just.

[S. 42 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

43. Provided always, that unless it shall appear to the satisfaction of such court that all the property of the insolvent is situate, and all the debtors and creditors resident, within the limits of the charter of the East India Company, then, until the expiration of twelve calendar months from a notice, to be published in the London Gazette, of the petition or adjudication of or against any insolvent, as herein-after is mentioned, the assignee or assignees shall reserve the full amount of one third part of all the property of the said insolvent which shall have been got in, and shall make a dividend amongst the creditors of the said insolvent to the amount of the remaining two third parts only, which third part so to be reserved as aforesaid shall in the meantime be invested or disposed of in such way as such court shall order, and shall not remain in the hands of such assignee or assignees; and at the expiration of the said term of twelve calendar months it shall be lawful for the assignee or assignees of such insolvent to apply to such court for a return of the said third part so reserved as aforesaid, in order that the same may be so distributed amongst the creditors as to place them all upon an equal footing; and upon such third part so reserved as aforesaid being restored to such assignee or assignees, such assignee or assignees shall forthwith proceed to take an account of the debts of the said insolvent admitted and established in the said court, and of the sum or sums which shall or may have been paid by way of dividend to any of such creditors, and shall distribute the fund then in the hands of such assignee or assignees, so as to place all the creditors of the said insolvent, whether Indian or British or foreign, upon a just and equal footing, and so as that every creditor whose debt or claim shall be admitted or established in the said court shall receive a rateable and proportional part of the assets of the said insolvent, according to the amount of his debt, without reference to the time at which such debt shall have been claimed.

Unless the court is satisfied that all the estate of the insolvent is in India, and all debtors and creditors reside there, assignee to reserve $\frac{1}{3}$ rd.

At expiration of 12 months such $\frac{1}{3}$ rd to be divided so as to place all creditors on equal footing.

44. If any creditor whose claim shall have been admitted or established in any court for the relief of insolvent debtors shall not appear, by himself, his attorney or agent, at the making of any dividend, nor shall make application to receive his share thereof, the assignee or assignees shall certify the same to such court at its first sitting after the making of the dividend, and it shall be lawful for the court to direct in what manner, and by whom, and upon what conditions, the money so due to such creditor shall be kept for or paid to him, or to his lawfully constituted attorney or agent.

If creditors do not appear to claim their dividends, court may order payment or deposit thereof.

45. If any assignee or assignees shall neglect to pay any dividend which shall have been ordered by any court for the

Power of court over assignees

committing
breach of duty.

relief of insolvent debtors, or in any other respect shall neglect or commit any breach of his or their duty as assignee or assignees, it shall be lawful for such court, having first summoned the assignee or assignees to appear before it and answer the same, to order the payment of such dividend, with interest at such rate as the court shall award, not exceeding six pounds per centum per annum, and to order the assignee or assignees to make such compensation to any party injured by such neglect or breach of duty as to such court shall seem fit, and in default of obedience thereto to commit such assignee or assignees to the common gaol, there to remain without bail until he or they shall obey the order of such court, and to levy by distress and sale of the offender's goods as much as shall be sufficient to satisfy the order of the court.

Wages, &c. of
servants or
clerks.

46. If it shall appear to any of the said courts for the relief of insolvent debtors that any such insolvent as aforesaid is indebted to any servant or clerk of such insolvent in respect of wages or salary of such servant or clerk, it shall be lawful for the said court to order so much as shall be due as aforesaid, not exceeding six months wages or salary, to be paid to such servant or clerk out of the estate of such insolvent, and such servant or clerk shall be at liberty to prove and receive dividends for any sum exceeding such last-mentioned amount.

Order of
discharge.

47. Upon application to the court for that purpose, it shall be lawful to the court to declare that the insolvent is entitled to his personal discharge under this Act, and to order the same accordingly, which order of discharge shall have the effect of protecting his person from arrest in respect of all demands inserted in his schedule or established in the same court; and if such insolvent be in custody, it shall be lawful for the court to order his immediate discharge from custody accordingly, or to dismiss or give leave to amend the petition aforesaid, or to order the insolvent to amend his schedule, or to adjourn the hearing until a future day, or to make a reference to the examiner or other officer of the said court to make inquiry into any matter of account, or into the truth of the schedule or schedules, and to report thereon to the court; and it shall also be lawful for the court to remand the insolvent to prison, if a prisoner, until a further hearing, or until a further time to be named in such order, or to commit the insolvent to custody for any debt or demand, if he shall not be in custody at the time of the hearing, and to cancel or renew any such order as is herein-before mentioned which may have been given for the purpose of affording interim protection to the insolvent from arrest, and to order and direct that the assignee shall make some reasonable allowance for maintenance of the insolvent until final order, the amount of which shall be fixed by the court, and shall not exceed five Company's rupees per week; and the court by which any order of discharge shall be made upon any such hearing as is herein-

Powers of
adjournment.

Notice of order
of discharge to
be given.

before mentioned shall by such order direct that the assignee shall give such notice of such order as to the court shall seem fit and convenient.

48. The discharge of any such insolvent as aforesaid shall and may extend to any sum or sums of money which shall be payable, by way of annuity or otherwise, at any future time or times, by virtue of any bond, covenant, or other security whatsoever, and to any sum or sums of money payable at a certain time, which time shall not have arrived at the time of the act of insolvency or petition of such insolvent; and every person and persons who would be a creditor of such insolvent for such sum of money, if the same were presently due, shall be admissible as a creditor of such insolvent for the value of such sum of money so payable as aforesaid, which value the said court shall, upon application at any time made in that behalf, ascertain; and such creditor shall be entitled in respect of such value to the benefit of all the provisions made for creditors by this Act, without prejudice, nevertheless, to the respective securities of such creditor, excepting as respects such insolvent's discharge under this Act; and the discharge by virtue of this Act as to any debt or demand of any creditor of the insolvent shall be deemed to extend also to all costs incurred by such creditor before the insolvency in any action or suit for the recovery of the same, and to any process of contempt for enforcing the same, and to all costs which the insolvent would be liable to pay in clearing such contempt; and all persons as to whose demands for any such costs as aforesaid the discharge of the insolvent is so to extend shall be deemed creditors of the insolvent in respect thereof, and entitled in respect thereof to the benefit of all the provisions made for creditors by this Act, subject nevertheless to ascertaining the amount of such demands by taxation or otherwise.

Extent and
consequence
of discharge.

49. If after the filing of any insolvent's schedule in the said court for the relief of insolvent debtors, and before such insolvent shall obtain his discharge in the nature of a certificate herein-after mentioned, any suit or action shall be pending against the insolvent, his heirs, executors, or administrators, in any court within the limits aforesaid, or any execution or process shall be sued out or issued from any of the said courts, or be enforced against such insolvent, his heirs, executors, or administrators, for or in respect of any debt or demand admitted in the schedule of the insolvent, or disputed as to amount only, the said court in which such action or suit shall be pending, or from which such execution or process as aforesaid shall issue, on proof to its satisfaction that such action or suit, execution or process, is in respect of the debt or demand aforesaid, may stay the proceedings in such suit or action, so far as the same respects the said debt or demand, until further order of the said court, and may set aside or suspend such execution or process, so far as the

Stay of pro-
ceedings
against insol-
vent.

same respects the said debt or demand, until further order of the said court, as it shall think fit; and in such case the plaintiff shall pay all costs reasonably incurred by such insolvent, his heirs, executors, or administrators, by reason of such proceedings, and such execution and process as aforesaid, subsequent to such plaintiff's having notice of his debt or demand being included in such schedule as aforesaid: Provided always, that no prisoner whose estate shall by an order under this Act have been vested in the said official assignee shall after such order, and whilst the same is in force, be discharged out of custody, otherwise than under the provisions of this Act, as to any action, suit, or process, or concerning any demand, with respect to which an order of discharge can, under the provisions of this Act, be made; nor shall such action, suit, or process abate, be discontinued, terminated, or dismissed, or the plaintiff be in any way subject to pay costs, by reason merely of his not having taken any further step in such cause, suit, or process, or his forbearing to proceed with the same, after such vesting order as aforesaid.

Punishment
of insolvent
for certain
offences.

50. In case it shall appear to any court for the relief of insolvent debtors that any such insolvent has fraudulently, with the intent to conceal the state of his affairs, or to defeat the objects of this Act, destroyed or otherwise wilfully prevented or purposely withheld the production of any book, paper, or writing, relating to such of his affairs as are subject to investigation under this Act, or kept or caused to be kept false books, or made false entries in, or withheld entries from, or wilfully altered or falsified, any such book, paper or writing, or that such insolvent has fraudulently, with intent of diminishing the sum to be divided among his creditors, or of giving an undue preference to any of the said creditors, discharged or concealed any debt due to or from the said insolvent, or made away with, charged, mortgaged, or concealed any part of his property, of what kind soever, such court shall have power to adjudge that the insolvent shall be imprisoned for a period or periods not exceeding two years in the whole, as such court shall direct and to declare him entitled to his discharge as aforesaid at the expiration of the term of imprisonment to which he shall be sentenced, and by warrant under the seal, of the court to order him to be arrested and committed to prison, and there to be detained accordingly.

Insolvents con-
tracting debts
fraudulently, or
by breach of
trust or false
pretences, or
vexatiously de-
fending suits,
or indebted for
damages re-
covered in cer-
tain actions, or

51. In case it shall appear to any such court that such insolvent shall have contracted any of his debts fraudulently, or by means of breach of trust, or by means of false pretences, or without having any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any of his debts by any of his creditors, or shall have put any of his creditors to any unnecessary expense by any vexatious or frivolous defence or delay to any suit for

recovering any debt or any sum of money due from such insolvent, or shall be indebted in costs incurred in any action or suit vexatiously brought or defended, or shall be indebted for damages recovered in any action for criminal conversation with the wife, or for seducing the daughter or servant of the plaintiff in such action, or for breach of promise of marriage made to the plaintiff in such action, or for damages recovered in any action for a malicious prosecution, or for a libel or for slander, or assault or battery, or malicious arrest, or in any other action for a malicious injury done to the plaintiff therein, or in any action of tort or trespass to the person or property of the plaintiff therein, wherein it shall appear to the satisfaction of such court that the injury complained of was malicious, or if it shall appear that the insolvent's whole debts so greatly exceed his means of providing for the payment thereof during the time when the same were in the course of being contracted, reference being had to his actual and expected property, as to show gross misconduct in contracting the same, then and in every such case it shall and may be lawful for such court to adjudge that such insolvent shall be so discharged and so entitled as aforesaid forthwith, excepting as to any debts, sum or sums of money, or damages, to be specially mentioned in the order, and as to such debt or debts, sum or sums of money, or damages, to adjudge that such insolvent shall be so discharged and so entitled as aforesaid as soon as he shall have been in custody at the suit of the person or persons who shall be creditor or creditors for the same respectively for such period or periods, not exceeding two years in the whole, as such court shall direct.

52. In all cases where it shall have been ordered that any such insolvent shall be discharged from imprisonment as aforesaid at some future period, such insolvent shall be subject and liable to be detained in prison, and to be arrested and charged in custody, at the suit of any one or more of his creditors with respect to whom it shall have been so ordered, at any time before such period shall have arrived, in the same manner as he would have been subject and liable thereto if this Act had not passed: Provided nevertheless, that when such period shall have arrived such insolvent shall be entitled to the benefit and protection of this Act, notwithstanding that he may have been out of actual custody during all or any part of the time mentioned in such order, by reason of such insolvent not having been arrested or detained during such time, or any part thereof.

contracting debts by gross misconduct, may be discharged immediately except as to such debts, and as to them after being in custody for any period not exceeding two years.

Where insolvent is ordered to be discharged after imprisonment at a future period, he shall be liable to be detained, arrested, and charged in custody, during such period, at the suit of creditors as to whom it is so ordered.

53. In all cases where such insolvent shall, upon such order as aforesaid, be liable to further imprisonment at the suit of his creditors, or any of them, it shall be lawful at any time for the court by which such order shall be pronounced, on the application of such insolvent, to order such creditor or creditors at whose suit he shall be so imprisoned to pay to such insolvent

Where insolvent liable to further imprisonment at the suit of creditors, court may order detaining creditor

to allow him
a sum for
maintenance.

such sum or sums, not exceeding the rate of five Company's rupees by the week in the whole, at such times, and in such manner, and in such proportion, as such court shall direct, and that in failure of payment thereof, as directed by such court, such court shall order such insolvent to be forthwith discharged from custody at the suit of the creditor or creditors so failing to pay the same.

Creditor
opposing dis-
charge of
insolvent to
have his costs
allowed him out
of the estate in
certain cases ;

54. Whenever any creditor or creditors opposing such insolvent's discharge shall prove to the satisfaction of any such court that such insolvent has done or committed any act for which he may be liable to remain in such custody as aforesaid, it shall be lawful for such court to order the taxed costs of such opposition to be paid to such opposing creditor or creditors out of the estate and effects of such insolvent, by his or her assignee or assignees, before any dividend made thereof ; and in all other cases of opposition to an insolvent's discharge being substantiated or effectual, it shall be lawful for such court to adjudge in like manner ; and that in case it shall appear to such court that the opposition of any creditor to any such insolvent's discharge was frivolous and vexatious, it shall and may be lawful for such court to award such costs to such insolvent as shall appear to be just and reasonable, to be paid by the creditors making such opposition, which shall be paid accordingly.

but if opposi-
tion be
frivolous or
vexatious, court
may award
costs against
such creditor.

Where order
has been issued
for discharge
of insolvent,
the court may
also discharge
him as to any
arrest or
detainers that
may be lodged
against him for
debts in respect
of which such
order shall be
made.

55. Where in the matter of any such petition heard before any such court any order shall have been made by such court for the discharge of any insolvent, such court shall also issue a warrant or warrants to the gaoler accordingly, ordering the discharge of such insolvent from custody as to any arrest or detainers under which he may then be confined, or which may be lodged against him before he shall be out of custody, the same being for debts in respect of which such order of discharge shall have been made ; and every such order of discharge shall take effect as from the day on which it was pronounced ; and every such order may be made without specifying therein any such debt or debts, or sum or sums of money, or claims as aforesaid, or naming therein any such creditor or creditors as aforesaid, excepting so far as shall be necessary in any case in order to distinguish between the creditors as to whom any such insolvent may be ordered so to be discharged as aforesaid forthwith, and the creditors as to whom he may be ordered to be so discharged at some future period : Provided nevertheless, that in all cases the arrest or detainer with respect to which any such insolvent shall have been ordered to be discharged out of custody, he being then in custody thereupon, shall be specified in the warrant of such court, to be delivered to the gaoler in that behalf.

Such order for
discharge, ex-
cept in cases of
appeals, shall
be final and

56. Every such order for discharge of any insolvent as aforesaid by any such court as aforesaid, except in cases of appeals, shall be final and conclusive, and shall not be reviewed by such court, unless such court shall thereafter see good and sufficient

cause to believe that such order has been made on false evidence, or has been made by reason of an improper suppression of evidence, or of any false statements in the insolvent's schedule, or has otherwise been fraudulently obtained, in which case it shall and may be lawful for such court, upon the application of such insolvent, or of any creditor of such insolvent, to order such insolvent, upon due notice to be given to such persons and in such manner as the said court shall direct, to attend or to be brought up, and the said matter to be re-heard before the said court, who shall thereupon re-hear the same, and shall and may, if just cause shall appear, annul the original order made in such case, and shall have the same powers and authorities upon such re-hearing as upon an original hearing in pursuance of this Act, and may adjudicate in such matter accordingly; and thereupon, in case the former order in the said matter shall not be confirmed, such order, certificate, and warrant, so far as circumstances require, shall be made as required by this Act to be made in the case of the original order; and the said court shall and may, if necessary, remand the said insolvent to the same custody in which he or she was at the time of the former hearing, there to be subject to imprisonment as if the former order therein had not been made; and thereupon all detainers which were in force against such insolvent at the time of his or her former discharge from custody shall be deemed to be still in force against him or her, as if such former order had not been made; and the gaoler and keeper of the prison to which such insolvent shall be so remanded shall and is hereby required to receive such insolvent into his custody in pursuance of such remand, for doing which the order of remand in such case shall be his sufficient warrant; and where in any case such insolvent shall refuse or neglect to appear before such court according to such order for re-hearing as aforesaid, a copy whereof shall have been duly served on such insolvent, it shall and may be lawful for such court to order such insolvent to be apprehended and committed to custody to such prison, and to issue its warrant accordingly, and to cause such insolvent to be brought up for examination as often as to such court shall seem fit: Provided always, that where upon such re-hearing it shall appear to such court that such insolvent is not entitled to the benefit of this Act until some future period, according to the provisions herein contained, the said court shall and may, if it shall appear reasonable, adjudge the discharge of such insolvent at such future period, to be calculated without including the time during which such insolvent shall be out of custody since the time appointed for his or her discharge by such former order as aforesaid.

conclusive, unless obtained fraudulently, in which case it may be re-heard and annulled.

Proceedings if order is annulled.

57. Provided always, that if in any case an order for the discharge of any such prisoner shall have issued erroneously, and which is not pursuant to the intended order of the court in that behalf, it shall be lawful for the said court, on such error

If order is issued erroneously, court may revoke, annul,

suspend, or amend the same, and re-commit the prisoner.

being shown to the court, to revoke such order and to annul, suspend, or amend the same, and, if necessary, to re-commit such prisoner to his former custody, when by such order he shall have been discharged therefrom; and the gaoler or keeper of the prison to whose custody such prisoner shall be so re-committed is hereby required to receive such prisoner into his custody, according to such re-commitment, and thereupon all detainers which were in force against such prisoner at the time of such discharge as aforesaid shall be deemed to be still in force against him, as if such erroneous order had not issued.

On request of assignee, insolvent may at any time, although discharged, be further examined touching his estate.

Insolvent refusing to appear, &c. may be committed.

58. It shall and may be lawful to and for the assignee or assignees from time to time, although an order for the discharge of the insolvent may have been made, to apply to the court that such insolvent may be further examined as to any matter or things relating to his estate and effects by such court, and thereupon it shall be lawful for the said court to order the same; and in case such insolvent shall neglect or refuse to appear before such court, at such time and place as shall be directed by such order, or shall refuse to be sworn, or to answer to such questions as shall be put to him relating to the discovery of his said estate and effects, then and in any of such cases it shall be lawful for such court by warrant to commit such insolvent to gaol, there to remain without bail or mainprize until such time as he shall submit himself to the order of such court in that behalf, and shall answer, upon oath or otherwise, as shall be required, to all such lawful questions as shall be put to him in pursuance of the same for the purposes aforesaid.

Where estate pays one third of insolvent's debt, or where a majority in number and value of creditors consent, court may, on petition in form in schedule (E.), grant an order nisi for discharge of insolvent, appoint time for hearing, and direct notices to be given.

Notices to creditors resident without the limits of the charter.

59. Whenever it shall appear that the estate of any insolvent which has come to the hands of his assignee has sufficed to pay one third of his debts admitted or established in the matter of the said insolvency, or that a majority in number and value of the creditors whose debts are admitted by the schedule, or established by proof, have consented to such application, it shall be lawful for the said court, at any time after the hearing of his petition, upon the application of the insolvent by petition, which may be in the form contained in the schedule (E.) to this Act annexed, with such variations as the case may require, to make an order nisi for his discharge in the nature of a certificate, and such order shall specify the creditors whose demands are thereby sought to be discharged, and shall appoint a time for the further hearing of the said petition, and shall direct such notice to be given of such order in the meantime as it shall think fit, and in case any of the creditors against whom such discharge shall be sought shall appear to the court to be resident without the limits of the charter of the East India Company, to cause notice of such order, or of so much thereof as may appear necessary, to be inserted in the gazette of the presidency; and the chief secretary of the government of the presidency shall thereafter, without delay, transmit copies of such gazettes containing such notice as aforesaid, by separate conveyances, to the

court of directors of the East India Company, who shall, without delay, cause an extract from such gazette to be inserted in the London Gazette; and upon the further hearing of such petition it shall be lawful for the said court to make such order absolute, or to dismiss such petition, or to adjourn the further hearing thereof, or to make such order therein as shall be just; and such discharge, unless order shall be made to the contrary, shall extend to and shall discharge the insolvent personally, and also his after-acquired property, from the demands of all the creditors named in the said order nisi: Provided always, that such order shall not affect any creditor without the limits of the charter of the said East India Company, unless notice of the said order nisi shall have been directed to be given in the gazette in manner aforesaid, and a period of twelve calendar months shall have elapsed between the date of the said order nisi and the date of the said order to make the same absolute: Provided also, that such order shall not operate as a release or discharge of any person who was a partner with such insolvent, or jointly bound or liable with him.

(Order on further hearing of petition.

60. It shall be lawful for any insolvent debtor, being such trader as herein-before is mentioned, who shall have presented a petition under this Act, or as to whom an adjudication that he has committed an act of insolvency shall have been made under this Act, provided he shall have filed his schedule, to apply to the said court by petition, which may be in the form contained in the schedule (F.) to this Act annexed, with such variations as the case may require; and it shall be lawful for the said court, upon such petition, to make an order nisi for his discharge in the nature of a certificate, and to appoint a time for the further hearing of the said petition, and to direct such notices to be given of such order in the meantime as it shall think fit, and in case any of the creditors against whom such discharge shall be sought shall appear to the court to be resident without the limits of the charter of the East India Company, to cause notice of such order to be inserted in the gazette of the presidency; and the chief secretary of the government of the presidency shall thereafter, without delay, transmit copies of such gazettes containing such notice as aforesaid, by separate conveyances, to the court of directors of the said East India Company, who shall, without delay, cause an extract from such gazette containing such notice to be inserted in the London Gazette; and upon the further hearing of the said petition it shall be lawful for the said court to make such order absolute, or to dismiss such petition, or to adjourn the further hearing thereof, or to make such order therein as shall be just; and such discharge, unless such order shall be made to the contrary, shall extend to and shall discharge the insolvent personally, and also his after-acquired property, from all demands which would be discharged by a certificate under the bankrupt laws granted under a fiat bearing even date with the insolvent's petition, or with the adjudication, as the case may be: Provided always, that such order shall not affect

Court may, upon application of insolvent trader, in form in schedule (F.), provided he has filed his schedule, make an order nisi for his discharge, appoint a time for hearing, and direct notices to be given.

Notice to creditors resident without the limits of the charter.

Order on further hearing of petition.

any creditor without the limits aforesaid, unless notice of the said order nisi shall have been directed to be given in the London Gazette in manner aforesaid, and a period of twelve months shall have elapsed between the date of the said order nisi and the date of the said order to make the same absolute: Provided also, that such order shall not operate as a release or discharge of any person who was partner with such insolvent, or jointly bound or liable with him.

If insolvent discharged by such order be again sued in respect of former debts, court may, on his application, order proceedings to be stayed, and award costs.

61. If any such insolvent, his heirs, executors, or administrators, shall, after such order for discharge in the nature of a certificate under this Act as aforesaid, be sued or arrested either on mesne or final process, or execution shall issue against his or their property, for any debt, claim, or demand from which the said insolvent shall have been discharged by such order, on his or their application to any court having power to stay such proceedings, or to discharge from such arrest, or to set aside such execution, and upon proof to the satisfaction of such court of such order, and that the debt or claim for which such proceedings are had is the same from which the said insolvent has been discharged by such order as aforesaid, such proceedings shall be stayed, and he or they shall be discharged from such arrest, and such process of execution shall be set aside, and all further proceedings in the suit in which such arrest or such execution was shall also be stayed, and the said court shall have power to award costs to the said insolvent, or his heirs, executors, or administrators, as aforesaid, in case the said proceedings shall appear to the said court to have been taken after notice of the said order, and without any reasonable cause for impeaching the same, or to have been otherwise oppressive or vexatious.

Nothing in this Act to affect debts, penalties, &c. due to the Crown.

62. Provided always, that no debt due to our sovereign lady the Queen, nor any fine, penalty, or forfeiture whatsoever, nor any recognizance whereby a debt is acknowledged to the Queen, nor any debt due on account of any fine, penalty, or forfeiture, or any estreat, shall be deemed or taken to be such a debt or debts as to entitle any person or persons to petition as is before mentioned, nor shall any person be entitled to receive any dividend for the same under this Act, nor shall any such fines, penalties, forfeitures, recognizances, debts, or estreats be in any way discharged or affected by anything done under this Act, otherwise than they might and would have been discharged or affected if this Act had not been passed.

Special provisions as to insolvent married women.

63. The provisions of this Act shall extend to married women, and the order vesting the estate and effects of such married woman in the official assignee shall extend to and operate upon her interest in any property, real or personal, in possession, reversion, remainder, or expectancy, subject to any rights of her husband therein, and to all property over which she shall have any beneficial power of disposition, notwithstanding her coverture, to the extent of the benefit which she might acquire therein by

the exercise of such power; but the same shall not extend to her wearing apparel, bedding, and other such necessities, not exceeding in the whole the value of two hundred Company's rupees: Provided always, that the discharge of any married woman under the provisions of this Act shall not extend to discharge her husband from any debt in respect of which his wife shall be so discharged, but such debt, as far as the same shall remain unpaid and unsatisfied, shall be chargeable upon and in force against such husband, as fully to all intents and purposes as if his wife had not obtained such discharge.

64. If any such prisoner for debt as aforesaid shall be or become of unsound mind, and be therefore incapable of taking the benefit of this Act in such manner as he might have done if of sound mind, the gaoler or keeper of the prison wherein such prisoner shall be shall give information thereof to the court for the relief of insolvent debtors of the presidency wherein such prison shall be situated, which court may thereupon proceed to inquire touching and respecting the state of the prisoner's mind, by examination of witnesses upon oath or solemn affirmation, or by such other means as it shall think fit; and if such court shall conclude that the prisoner is of unsound mind, it shall be lawful for such court, at the instance of any person on behalf of such prisoner, to order notice to be twice inserted in the gazette of such presidency, and in such notice to specify and direct that application shall be made to such court for the discharge of such prisoner on a day to be specified in such notice, being twenty days at least from the first time of publication of such notice; which notice, together with service of the notice on the creditor or creditors at whose suit such prisoner shall be detained in custody, or his, her, or their attorney, shall be deemed sufficient to authorize such court to proceed to the discharge of such prisoner, and such court shall proceed accordingly, and discharge such prisoner: Provided always, that all and every the estate, right, title, interest, in law and equity, real and personal, power, benefit, and emolument whatsoever, which would rest in the official assignee under a vesting order in the case of a petition by such insolvent if he were of sound mind, shall, by force and virtue of the order for the discharge of such prisoner, be vested in the official assignee in the manner and for the purposes herein-before mentioned.

As to insolvent debtors becoming lunatics.

[*Ss. 65-67 rep. 38 & 39 Vict. c. 66 (S.L.R.)*]

68. Affidavits and affirmations to be used before any court for the relief of insolvent debtors, or any officer of such court, may be sworn and affirmed before such court, or any commissioner or other person appointed by such court for that purpose, or any judge or commissioner for taking affidavits in any of her Majesty's courts of record within the limits of the said East India Company's charter, or before any . . . master extraordinary in Chancery in England or Ireland, or any magistrate authorized to take affidavits or affirmations in Scotland.

Affidavits and affirmations may be sworn, &c. before courts, and commissioners, &c. appointed for that purpose, &c.

Penalty for perjury, or for forging or counterfeiting the seal of any court.

69. If any person, in any proceeding, examination, affidavit, or affirmation, had or taken under this Act, shall wilfully and corruptly swear or affirm falsely, or shall forge or counterfeit the seal of any of the said courts, or knowingly concur in using any such forged or counterfeit seal for the purpose of authenticating any proceedings or document, it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law to order and adjudge such person to be transported to such place and for such term as the court shall direct, or in either case to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct.

Penalty on insolvent, &c. for embezzlement or concealment, &c. of effects, books, papers, &c.

70. If any insolvent who shall have have filed a petition for relief, or against whom any such adjudication as aforesaid of an act of insolvency shall have been made, in any of the said courts for the relief of insolvent debtors in India, or any other person, shall wilfully and fraudulently embezzle or conceal or remove any part of the real and personal estate or effects of such insolvent, or any books of account, papers, or writings relating thereto, with intent to defraud his creditors, or shall destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law to order and adjudge that such person shall be transported to such place and for such term of years as the said court shall direct, or to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct.

Application of fines imposed for the foregoing offences for benefit of creditors injured by such offences, on application of assignee within one year.

71. Whenever any person or persons shall have been ordered and adjudged, under the provisions of this Act, to pay any fine for any forgery or perjury, or embezzlement or concealment, or any other such offence as lastly herein-before is mentioned, and such fine shall have been paid, it shall be lawful for any assignee or assignees in whom the estate and effects of any insolvent or insolvents shall be duly vested according to the provisions of this Act to apply to the court by which such fine shall have been imposed; and if it shall be proved to the satisfaction of the same court that the creditors for whose benefit the said assignee or assignees shall hold in trust the said estate and effects have been defrauded, or have incurred loss, by means of such forgery, perjury, embezzlement, concealment, or other offence as aforesaid, the said court by which the said fine shall have been imposed may direct the same to be paid, after deducting the costs of prosecution, to the said assignee or assignees, for the use and benefit of the said creditors: Provided always, that if no such

application shall be made by such assignee or assignees within one year after any such fine shall have been paid it shall be lawful for the court by which such fine shall have been imposed to appropriate, apply, and to pay over such fine to such uses, purposes, and persons, and in such manner, as any other fine imposed by the same court for any other crime or misdemeanor may be lawfully appropriated, applied, and paid over.

72. Any person who shall be interested in any proceeding of any of the said courts for the relief of insolvent debtors, upon depositing with the proper officer of the court a sum of money, of which the amount shall be fixed by the court, may require that the whole of the evidence relating to any such proceeding may be taken down in writing by a sworn officer of the court, and the same shall be done accordingly; and in case such person shall not within one calendar month thereafter present a petition of appeal as is herein-after directed, it shall be lawful for the court in which such evidence shall have been so taken down in writing as aforesaid to pay the reasonable costs and expences thereof out of the money which shall have been so deposited as aforesaid, returning the surplus, if any, to the person who shall have deposited the same.

Any person interested in proceedings before the court may, on making a deposit, require the evidence, &c. to be taken down by a sworn officer of the court.

If applicant does not appeal in one month, expence may be paid out of deposit.

73. It shall be lawful for any person who shall think himself aggrieved by any adjudication, order, or proceeding of any such court for the relief of insolvent debtors to present, within one calendar month thereafter, a petition to the supreme court of judicature of the presidency; and it shall be lawful for such court to order that the whole of the evidence, if any, which shall have been so taken down in writing as aforesaid, and the minutes and records of the proceedings of which complaint shall have been made, shall be brought before it; and the said last-mentioned court shall inquire into the matter of the petition, and of such proceedings and evidence, and shall make such order thereon as to the same court shall seem meet and just, and shall thereby direct by whom and in what manner the costs of such petition, and of the proceedings which shall have been had thereon, and of the taking down of any such evidence in writing, and of the proceedings of which complaint shall have been made, shall be paid; and such order shall be final and conclusive as to all parties, and shall be compulsory and binding upon the court in which such proceedings so complained of shall have been had.

Power of appeal to the supreme court of the presidency.

Evidence and records to be brought before court.

Court to make order on appeal, and as to costs of evidence, &c.

74. The proper officer of the several courts for the relief of insolvent debtors shall, on the reasonable request of any such insolvent as aforesaid, or of any creditor or creditors of such insolvent, or his, her, or their attorney, produce and show to such insolvent, creditor or creditors, and his, her, or their attorney, at such times as such courts respectively shall direct, every petition, schedule, order of adjudication, and all other orders and proceedings made and had relating to such insolvent; and the said

Officers of courts to produce proceedings, allow inspection, and give copies, on request of insolvent or creditors.

court shall order the assignees of such insolvent, or the said officer of the court, as the case may be, to permit the said insolvent, creditor or creditors, or their respective attornies, to have inspection, at all reasonable times, of all books, papers, and writings relating to the matters of the said insolvency, and the estate of the said insolvent, in the possession of such assignees, or filed in court in such matter, and permit him, her, or them to inspect and examine the same; and such officer or such assignees as aforesaid shall provide for any such insolvent, or creditor or creditors, or his, her, or their attorney requiring the same a copy or copies of such petition or other proceedings, books, papers, and writings as aforesaid, or of such part thereof as shall be required, receiving such fee or sum or rate of charge as such court shall appoint for so providing the same; and a copy of such petition, schedule, order, and other orders and proceedings as aforesaid, purporting to be signed by the officer in whose custody the same shall be, or his deputy, certifying the same to be a true copy of such petition, schedule, order, or other proceedings, and appearing to be sealed with the seal of the said courts respectively, shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted in all courts whatever, and before commissioners of bankrupt and justices of the peace, without any proof of such seal or other proof whatsoever, as sufficient evidence of the same.

Certified and sealed copies of proceedings to be evidence.

Conveyances, &c. under this Act not liable to stamp duties, nor sales directed by the court to auction duty.

75. No conveyance, assignment, letter of attorney, affidavit, certificate, or other proceeding, instrument, or writings whatsoever, before or under any order of any of such courts for relief of insolvent debtors, nor any copy thereof, nor any advertisement inserted in any newspaper by direction of any such court, relating to matters within the jurisdiction of such court, shall be liable to or chargeable or charged with the payment of any stamp or other duty whatsoever; and no sale of any real or personal estate of any such insolvent as aforesaid for the benefit of his or her creditors under this Act shall be liable to any auction duty.

Supreme courts may make rules and regulations.

76. Her Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively shall respectively have power from time to time to make all necessary and reasonable rules, not inconsistent with the provisions of this Act, for facilitating and carrying into effect within their respective jurisdictions the relief intended to be given by this Act in cases for which sufficient provision has not been thereby made, and from time to time to alter and vary such rules; all which rules shall from time to time be transmitted to the President of the Board of Commissioners for the Affairs of India, to be laid before her Majesty for her royal approbation, correction, or revision.

Filing of petition by insolvent, and adjudication of

77. The filing of a petition by any insolvent debtor under this Act, and the adjudication of an act of insolvency under this Act, shall for the purpose of the laws concerning bankrupts in

England be accounted and adjudged conclusive evidence of an act of bankruptcy committed by such insolvent at the time of filing his petition, or of filing the petition on which the adjudication shall be made, if the insolvent shall then be a person subject to the laws then in force respecting bankrupts; and any creditor or creditors of such insolvent whose debt or debts shall be of sufficient amount to enable him or them by law to petition for a fiat in bankruptcy may, at any time within two months after notice of the insolvency shall have been given in the London Gazette as herein-after is directed, sue out a fiat in bankruptcy in that part of the United Kingdom called England against such insolvent, under which all such proceedings may be had and taken as are authorized and directed, or shall be authorized and directed, by any statute or statutes now in force or hereafter to be passed respecting bankrupts, except as herein-after provided.

an act of insolvency, shall be conclusive evidence for purpose of bankruptcy laws in England of an act of bankruptcy committed by insolvent.

78. When any creditor or creditors resident within the limits of the charter of the East India Company shall be desirous of suing out such fiat in bankruptcy against any such insolvent trader, it shall be lawful for such person or persons to make proof of his or their debt or debts before any of the said courts for the relief of insolvent debtors, which proof shall be certified under the seal of such court; and the production of the certificate thereof so sealed as aforesaid shall, without any proof of the genuineness of such certificate or of such seal, be sufficient evidence of a petitioning creditor's debt to warrant the issuing of a fiat, and also to authorize all further proceedings thereon.

Creditor residing in India may prove his debt before the insolvent debtors' court.

79. Provided always, that in the case of the issuing of any fiat in bankruptcy against any such insolvent trader, such fiat shall not in any manner affect, invalidate, or make void any acts or proceedings had or done before the issuing of such fiat of or by or under the authority of any court for the relief of insolvent debtors in India, either by any assignee or assignees, or any other person or persons acting either mediately or immediately under the authority of any such court, and whether without or within the limits of the charter of the said East India Company; nor shall such fiat in any manner affect, invalidate, or make void any such acts or proceedings as aforesaid had or done after the issuing of such fiat respecting any property or interest whatsoever of such insolvent, real or personal, or other matter, thing, or person whatsoever, within the said limits; nor shall the assignee or assignees under any such fiat in bankruptcy acquire any right or title to take possession of, demand, sue for, or recover any property or interest whatsoever, real or personal, of such insolvent, within the limits aforesaid; but the assignee or assignees under such insolvency shall, notwithstanding such fiat in bankruptcy, have full power and control over all the real and personal property of such insolvent within the limits aforesaid

Fiat not to invalidate or make void any proceedings had by insolvent debtors' court before the issuing of such fiat, or any proceedings had there after as to property in India.

as well as over that without the limits aforesaid of which they may have taken actual possession before the issuing of such fiat, and shall have the distribution and management of all such property, as fully and effectually as if such fiat in bankruptcy had not issued.

Creditors having proved under insolvency to be admitted as creditors under bankruptcy, and creditors under bankruptcy to be admitted as creditors under insolvency.

80. All the creditors of any such insolvent whose debts shall have been admitted or allowed by any court for the relief of insolvent debtors in India shall, without further proof, be entitled to be admitted as creditors under any such fiat in bankruptcy as aforesaid, for the purpose of receiving an equal dividend upon the estate of such bankrupt with the creditors who shall have proved their debts under such fiat; and in like manner all creditors under such fiat whose debts shall have been duly established shall be entitled to be admitted as creditors, without further proof, in such court for the relief of insolvent debtors, for the purpose of receiving an equal dividend upon the estate of such insolvent with the creditors whose debts shall have been allowed in such court.

Insolvent in India made bankrupt in England not liable for not surrendering until 42 days after arrival in U.K.]

Publication of notices of insolvency, &c.

81. Provided always, that when any such insolvent shall be declared bankrupt upon the sole ground herein-before mentioned, he shall not be required to surrender or be liable to any penalty for not surrendering himself to be examined under his commission until forty-two days after he shall have come into some part of the said United Kingdom of Great Britain and Ireland.

82. The principal officer of the respective courts for the relief of insolvent debtors shall cause notices to be inserted in the gazettes of the respective presidencies within which such courts shall be holden of every petition which shall be filed in any of the said courts by any insolvent for relief under this Act, and of every adjudication of an act of insolvency, and of every confirmation or revocation thereof, together with the dates of the same respectively, and, in the case of an adjudication, the date of the petition on which the same is grounded, forthwith after the filing of such petition, or pronouncing such adjudication or such confirmation or revocation respectively; and the chief secretary of the government of the said presidencies respectively shall, without delay, transmit to the court of directors of the said East India Company two or more copies at least of every such gazette which shall contain any such notice as aforesaid, who shall, without delay after the receipt thereof, cause such notice to be inserted in the London Gazette; and the production of the London Gazette containing any such notice as aforesaid shall be deemed and taken by all commissioners of bankruptcy and all courts whatsoever to be sufficient evidence of the filing of the petition of such insolvent in such court as aforesaid, and of such adjudication of insolvency, and of such confirmation or revocation thereof, and of the dates of the same proceedings respectively, and, in the case of any adjudication, of the date of the petition on which the same is grounded.

83. Provided always, that in case any fiat in bankruptcy, whether under the provisions of this Act or otherwise, shall be issued against such insolvent trader as aforesaid, upon which such insolvent shall be declared a bankrupt before such order for discharge in the nature of a certificate as herein-before mentioned, then and in such case such order shall not operate as a discharge from the debt, claim, and demand of any creditor who shall not have been resident within the limits aforesaid at any time between the filing of the insolvent's petition or the adjudication, as the case may be, and the making of such order: Provided always, that when such insolvent shall be indebted or liable to two or more persons jointly, if any one of such joint creditors shall have been resident within the limits aforesaid within the time aforesaid, such certificate shall operate against all such joint creditors as aforesaid, notwithstanding the non-residency within the limits aforesaid of some of the said joint creditors.

If fiat in bankruptcy be issued against insolvent before he obtains his order of discharge, such order shall not operate as a discharge of the debts, &c. of any creditor not resident in India, except in case of joint creditors one of whom is so resident.

84. Provided always, that in case any fiat in bankruptcy shall be issued against such insolvent trader as aforesaid, upon which he shall be declared a bankrupt before such order for discharge in the nature of a certificate as herein-before mentioned, if it shall afterwards be made to appear to any commissioner, judge, or court in bankruptcy having authority to grant a bankrupt's certificate that such order has been made by the court in the East Indies as aforesaid, such commissioner, judge, or court as aforesaid may, if he think fit, thereupon grant the certificate of such bankrupt, which shall have the same force and effect, both without and within the limits aforesaid, as any certificate duly granted under any statute or statutes now in force or hereafter to be in force respecting bankrupts.

Power of court of bankruptcy, in case of discharge granted to insolvent made bankrupt, to grant certificate to such bankrupt.

85. Whenever it shall appear by the schedule of any such insolvent as aforesaid that any of the creditors are resident out of the limits aforesaid, the principal officer of the said court for the relief of insolvent debtors shall, as soon as conveniently may be after the filing of such schedule, transmit two or more copies thereof to the chief secretary of the government of the presidency within which such court is situate, who shall transmit the same to the court of directors as soon as conveniently may be after the receipt thereof; and the said court of directors shall retain the same, and permit any person or persons, being a creditor or creditors of any such insolvent debtor, at all reasonable times to inspect and examine such schedule, and shall, upon the request and at the reasonable costs and charges of any such creditor or creditors, such costs or charges to be regulated by the said court of directors, provide for him or them a copy or copies of any such schedule.

Where any creditors are residing out of India, copies of schedule to be transmitted to the court of directors.

86. Provided always, that in all cases where any insolvent shall not have obtained his discharge in the nature of a certificate

Courts may, before making

order of discharge, order judgment to be entered up in the supreme court in name of assignee against insolvent for the amount of the debts stated in insolvent's schedule, or proved.

Execution on such judgment may from time to time be issued against future assets of insolvent.

Court may refuse vexatious applications with costs.

When judgment is discharged, court may, on application of insolvent or his representatives, order satisfaction to

as aforesaid under this Act, the said court for the relief of insolvent debtors may, if in the circumstances of the case it shall think fit, before making such order for such discharge, direct a judgment to be entered up against such insolvent in the supreme court of the presidency within which such court for the relief of insolvent debtors shall be situate in the name of the assignee or assignees, or of such official assignee as the court shall think fit, for the amount of the debts or demands stated in the schedule of such insolvent as due or claimed, and of such as shall be established in the said court against the said insolvent's estate, or so much thereof as shall appear at the time of such order to be due, which said order shall be filed in the said court for the relief of insolvent debtors in India; and the production of such order, or of a copy of such order, under the seal of the said court, of which order, copy, and seal no proof shall be requisite, other than the production of such order or copy, shall be sufficient authority to the proper officer for entering up the said judgment; and then and in every such case, and notwithstanding the provisions herein-before contained, if at any time it shall appear to the satisfaction of the said court that such insolvent is of ability to pay such debts or demands, or any part thereof, or that he is dead, leaving assets for such purpose, and that under the circumstances the same is reasonable and proper, the said court may, if it shall think fit, order execution to be taken out upon such judgment against the property of such insolvent, whether the same may or may not be by law vested in his assignee or assignees, for such sum of money as under all the circumstances of the case the said court shall order, such sum to be distributed rateably amongst the creditors of such insolvent according to the mode herein-before directed in the case of a dividend, and such further proceedings may be had upon such judgment as the court may from time to time order, until the said debts or demands shall be fully paid and satisfied, and no scire facias shall be necessary to revive or to execute such judgment on account of any lapse of time or change of parties, or otherwise, but execution shall at all times issue thereon by virtue of the order of the said court for the relief of insolvent debtors from time to time: Provided always, that in case any application against any such insolvent for the purpose aforesaid shall appear to the court to be vexatious or oppressive, it shall be lawful for the said court not only to refuse to make any order on such application, but also to dismiss the same with such costs against the party making the same as to the said court shall appear reasonable.

87. When the debts or demands in respect of which such judgment shall have been entered up as aforesaid shall have been discharged and satisfied, it shall be lawful for such court, upon application of the insolvent, his heirs, executors, or administrators, to direct satisfaction to be entered on such judgment; and the production of the order of the said court for entering up such satisfaction, or of a copy thereof,

under seal of the said court, of which said order or copy or seal no proof shall be requisite, other than the production of such order or copy as aforesaid, shall be a sufficient authority to the proper officer for entering up the same; and if in any case it shall appear to the satisfaction of the said court that after the said debts and demands shall have been so discharged and satisfied as aforesaid there shall remain in the possession or subject to the control of his assignee or assignees any property of any kind or description whatsoever, which has come to such assignee or assignees, or to which he or they may claim title, by virtue of the order made in that behalf, or otherwise by virtue of his or their office of assignee or assignees, it shall be lawful for the said court, on such application as aforesaid, to order that all such property so remaining as aforesaid shall be vested in the party so applying, and be forthwith delivered up to the said party, and such order shall have the effect of vesting the same accordingly, and the same shall be forthwith delivered up to the said party.

be entered up on such judgment;

and balance in hands of assignee to be paid to party applying.

[*Ss. 88-90 rep. 41 & 42 Vict. c. 79. (S.L.R.)*]

91. Where any rules or other matters are herein-before directed to be transmitted for her Majesty's approbation, correction, or revision, the same respectively shall in the meantime be of full force and shall so continue until the expiration of fourteen days after the court by whose authority such rules or other matters shall have been made shall have received from the President of the Board of Commissioners for the Affairs of India a communication of her Majesty's disallowance thereof, or of any alterations directed by her Majesty to be made therein.

Rules, &c. directed to be transmitted for her Majesty's approbation, &c. shall be in force till 14 days after notice of disallowance or alteration.

92. Whenever this statute hath used the words "court for relief of insolvent debtors," or any words of reference to the same, they shall include each court for the relief of insolvent debtors at Calcutta, Madras, and Bombay respectively; and words describing the petition of any insolvent shall include the joint petition of two or more insolvents, and all provisions as to the one shall apply to the other; and words importing the singular number or masculine gender only shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise provided, or there be something in the subject or context repugnant to such construction.

Interpretation of Act.

[*S. 93 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

94. Provided always, that nothing in this Act contained shall affect an Act passed by the Right Honourable the Governor General of India in council, in one thousand eight hundred and

Saving.

forty-one, for appropriating the unclaimed dividends of insolvent estates.

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.).

Sect. 5.

Form of Petition by Insolvent in Custody.

In the Court for Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the commissioners of the said court, the humble petition of _____, late of _____,

Showeth,

That on the _____ day of _____ your petitioner was committed to the custody of the sheriff [by virtue of a writ of _____ issued against your petitioner at the suit of the _____ for the sum of _____], [and that detainers have since been lodged against him at the suit of _____ and _____ for sums of _____ and _____ respectively], and that he is now a prisoner in the common gaol under the process aforesaid.

That he is desirous of obtaining the benefit of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays, that upon compliance with the provisions of the said Act he may have the benefit of the same, and that all necessary directions may be given for that purpose.

And your petitioner, &c.

NOTE.

The blanks are to be filled up, and the parts between brackets omitted or varied, according to the facts.

The petition is to be signed by the insolvent, and witnessed by the gaoler.

A similar form is to be adopted in the case of a joint petition.

SCHEDULE (B.)

Sect. 5.

Form of Petition of Insolvent not in Custody.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the commissioners of the said court, the humble petition of _____, of _____,

Showeth,

That your petitioner is in insolvent circumstances.

That he is now residing at _____, within the jurisdiction of the supreme court of _____

That he is desirous of obtaining the benefit of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays, that upon compliance with the provisions of the said Act he may have the benefit of the same, and that all necessary directions may be given for that purpose.

And your petitioner, &c.

NOTE.

The petition to be signed by the petitioner and witnessed by his attorney.

SCHEDULE (C.)

Sect. 6.

In the Court for the Relief of Insolvent Debtors.

The schedule of

In the matter of

, an insolvent.

I the said do declare, that this my schedule doth contain a full and fair description of me, as to name, trade, profession, and abode, and of the debts due or growing due from me, and of all and every person to whom I am indebted, or who to my knowledge and belief claim to be my creditors, together with the nature and amount of such debts and claims respectively, distinguishing such as are admitted from such as are disputed by me; and also a full, true, and perfect account of all my estate and effects, real and personal, in possession, reversion, remainder, or expectancy, and also of all places and employments of benefit to me held by me, and also of all pensions and allowances which I have in possession or reversion, or which are held by any other person for me or on my behalf, or of or from which I derive or may derive any manner of benefit, and also of all rights and powers which I am, or any other person in trust for me or for my use or benefit are, in any manner whatever possessed of or interested in or entitled unto, or which I or any other person in trust for me or for my benefit have any power to dispose of, charge, or exercise, for my benefit or advantage, together with a full, true, and perfect account of all the debts due or growing due to me or any person in trust for me or for my benefit or advantage, either solely or jointly with any other person, and the names and places of abode of the several persons from whom such debts are due and growing due, and of the witnesses who can prove or other evidence to prove such debts, so far as I can set forth the same; and that this my schedule doth fully and truly describe the wearing apparel, bedding, and other such necessities and working tools and implements of myself and my family which are excepted by me from the operation of the Act relating to insolvents in India, together with the value of such excepted articles respectively.

CREDITORS.

No.	Names and description of creditors of claimants, and their present or last residence.	Amount.				When contracted.	Admitted or disputed.	Nature and consideration of the debt and securities, if any; also why disputed, if disputed.
1. &c.								

Where there are cross demands, the party must be entered both as creditor and debtor, and "set off" must be written under the amount.

DEBTORS.

No.	Names and descriptions and places of abode of debtors.	Amount.				When contracted.	Good, bad, or doubtful.	Nature and consideration of the debt, also securities (if any) for the same.	Witnesses, with their residences, and other evidence by which the debt may be proved.

N.B.—If property has been taken possession of by the common assignee, it must nevertheless be fully entered in the schedule.

PROPERTY in possession.

		Supposed value.		
1. Interest in land, houses, rents, or other real estate.	Describe the quantity of estate, if less than the absolute proprietary right, as lease for years, lease for lives, &c.; local description, names of tenants, annual rent or value; statement of incumbrances (if any) thereupon, with description of them, and dates.			
2. Goods, choses in action	Household furniture - - - Wearing apparel (not excepted) - - - Jewels, trinkets, and ornaments - - - Plate, linen, china, glass - - - Wines and other liquors - - - Books, print, and pictures - - - Horses and other animals - - -			

Property in possession—*continued*.

		Supposed value.
2. Goods, choses in action —(<i>cont.</i>)	Carriages - - - - - Farming stock, crops, and implements of husbandry - - - - - Other crops on cultivation - - - - - Stock in trade, machinery, and utensils, in my business of - - - - - Ships and shares of ships, describing the ships by name, and master, or other suffi- cient description - - - - - Cash, bills, notes, bonds, &c.; any other property not particularly specified - -	
3. Property in public se- curities, Indian or otherwise, shares in companies, annuities, &c.	Describe the fund, stock, company, security, &c., and state in whose name, and also when and by whom, the last dividend or other payment in respect of the same was received, and shares of estate.	
4. Unpaid legacies - -	Legacies, shares of intestates' estates, with all particulars concerning the same	

PROPERTY in reversion, places, pensions, allowances, rights, and powers.

Contingent as well as vested interests must be entered.

Real and personal estate and effects in which I have any interest in
reversion, remainder, or expectancy.

		Supposed value of my interest, if now to be sold.
1. Interests in land, houses, rents, and other real estate.	Describe the property as in the division re- lating to property in possession; and a description of the nature of the interest, and from whom and in what manner it is derived, with names and descriptions of persons now enjoying the same, the value or annual value, according to the nature of the property, and in whose name or names the property now stands, or who has the legal interest therein, according to the nature of the property.	
2. Personal property, as goods and certain choses in action.		
3. Other personal property, as public securities, Indian or otherwise, shares in companies, annuities.		
Places, pensions, and allowances, in posses- sion or reversion.	Places of employments held by me, with the salaries, fees, and emoluments thereof; also all pensions and allowances in pos- session or reversion held by me, or by any other person or persons for me or on my behalf, or of or from which I derive or may derive any benefit.	

Property in reversion, &c.—*continued.*

		Supposed value of my interest, if now to be sold.
Rights and powers	- Rights and powers which I or any other person or persons in trust for me, or for my use, benefit, or advantage, am or are in any manner seised or possessed of or interested in or entitled unto, or which I or any other person or persons in trust for me or for my benefit have any power to dispose of, charge, or exercise, for my benefit or advantage - - -	
Excepted articles	- Excepted articles, and the value thereof - Give a full description of the excepted articles and their value.	

*The schedule is signed by the insolvent, and witnessed by his attorney.
A similar form must be adopted in the case of a joint schedule.*

SCHEDULE (D.)

Form of Petition for Adjudication of Insolvency.

FORM NO. 1.

Sect. 8.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the commissioners of the said court.

The humble petition of _____, of _____
Showeth,

That on or about the _____ day of _____ the said
[here state the time and place of the charge in execution or commit-
ment of the prisoner, and the amount of the debt or sum of money for
which the prisoner shall have been so charged in execution or
committed.]

That your petitioner is desirous that the said prisoner should be dealt
with according to the provisions of the Act for the relief of insolvent
debtors in India.

Your petitioner therefore humbly prays that the said
may be adjudged to have committed an act of insolvency, pursuant to
the provisions of the Act for the relief of insolvent debtors in India, and
that the proper order may thereupon be made.

And your petitioner, &c.

FORM NO. 2.

Sect. 9.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the commissioners of the said court.

The humble petition of _____, of _____,

Showeth,

That _____, late of _____, (heretofore
and up to _____ carried on the trade or business of _____
at _____), and thereby, as your petitioner is
advised, became a trader within the meaning of the bankrupt laws.

That on or about the _____ day of _____ the said
[*here state shortly the act or acts of insolvency*
relied on], whereby, as your petitioner is advised and believes, the said
is liable to be adjudged to have committed
an act of insolvency.

That at the time aforesaid the said _____ was and
now is indebted to your petitioner in the sum of _____
[*state for what the party is indebted, as for goods sold and delivered,*
&c.]

Your petitioner therefore humbly prays that the said
_____ may be adjudged to have committed an act of insolvency,
pursuant to the provisions of the Act for the relief of insolvent debtors
in India, and that the proper order may thereupon be made.
And your petitioner, &c.

NOTE.

*The blanks must be filled up, and the parts within brackets varied
or supplied, as the case may require.*

A similar form must be used in the case of a joint petition.

SCHEDULE (E.)

Sect. 59.

*Form of Petition for Discharge in the Nature of a Certificate of an
Insolvent not a Trader.*

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the commissioners of the said court.

The humble petition of the said insolvent.

Showeth,

That on or about the _____ day of _____ [*the circum-*
stances to be stated shortly].

That the estate of your petitioner has realised one third of the amount
of the debts established in this court in the matter of the said insolvency
[*or, that the major part in number and value of the creditors of your
petitioner contained in the said schedule, or who have since established
their debts in this court, have consented to the discharge of your peti-*
*tioner from all further liability in respect of his aforesaid debts, provided
that this court shall so order*], as appears by the schedule annexed to
this petition, to which you petitioner craves leave to refer.

That your petitioner is desirous of obtaining a discharge in the nature of a certificate under the provisions of the said Act.

Your petitioner therefore humbly prays that he may be discharged from all liability in respect of such debts, and that all necessary directions may be given for that purpose.

And your petitioner, &c.

NOTE.

The blanks must be filled up, and the parts between brackets varied, as the case may require.

The schedule to contain a copy of the original schedule, and of the debts proved since, if any, and the consents of the creditors must be signed by them, or their attorneys specially authorized.

SCHEDULE (F.)

Sect. 60.

Form of Petition for Discharge in the Nature of a Certificate of an Insolvent Trader.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent trader.

To the honourable the commissioners of the said court.

The humble petition of the said insolvent,

Showeth,

That your petitioner, prior to his insolvency herein-after mentioned, carried on the trade or business of _____, and thereby became a trader within the meaning of the bankrupt laws.

That on or about the _____ day of _____ your petitioner petitioned for his discharge under the Act for the relief of insolvent debtors in India (or, was adjudged by this court to have committed an act of insolvency).

That on or about the _____ day of _____ your petitioner duly filed his schedule in this court, and that your petitioner is desirous of obtaining a discharge in the nature of a certificate under the provisions of the Act relating to insolvent debtors in India; and he therefore humbly prays that all necessary directions may be given for that purpose, and that your petitioner may, by the order of this court for his discharge in the nature of a certificate, be discharged from all liability in respect of the debts or claims established, or which might by law be proved in this court, in the matter of his insolvency.

And your petitioner, &c.

NOTE.

The petitioner must annex to this petition a copy of his schedule, and include all debts established, though not included in the schedule as originally filed.

The blanks must be filled up, and the parts between brackets varied, as the case may require.

CHAPTER XXV.

AN ACT to extend the Powers given by former Acts for purchasing or hiring Land in connexion with or for the Use of Workhouses in Ireland ; and for providing for the Burial of the Poor.

[30th June 1848.]

[*Preamble recites 1 & 2 Vict. c. 56 ; 10 & 11 Vict. c. 31 ; and powers of the Commissioners for administering the Laws for the Relief of the Poor in Ireland to hire or purchase land under those Acts.*]

[1.] It shall be lawful for the majority of the guardians of any union to memorialize the commissioners to hire or purchase such additional quantity of land as may be deemed necessary for the aforesaid purposes, according to the circumstances of the union ; and on receipt of such memorial it shall be lawful for the commissioners, by and with the approval of the Lord Lieutenant of Ireland, to hire or purchase such quantity of land as they shall think requisite for the purposes aforesaid : Provided always, that the quantity of land so hired or purchased shall not exceed twenty-five statute acres in addition to the quantity heretofore authorized by law, and shall be used solely for the purposes above stated.

Purchase or hire of additional land, for employment of children under 16.

2. [*Repeal of 10 & 11 Vict. c. 31. s. 24.*] It shall be lawful for the Commissioners for administering the Laws for the Relief of the Poor in Ireland to combine any two or more unions in Ireland for the maintenance and education of children not above the age of fifteen years, being inmates of the workhouses of such unions respectively ; and all the provisions of the said Act which relate to the hiring and purchasing of land for the like purpose in respect of the North and South Dublin Unions, the erection of a school on such land, the contribution to the cost thereof, and the expences of furnishing, fitting up, and otherwise providing such school, the mode of charging the maintenance of the children, and regulating the proportionate numbers thereof to be received from each union, the establishment of a board of management of such school, and the appointment of officers for the superintendence thereof, and all other the powers and provisions relating to the establishment of such school for the use of the North and South Dublin Unions, shall apply in like manner to every combination of two or more unions under this Act.

Commissioners may combine unions for education of children.

Provisions of recited Act as to joint school for North and South Dublin Unions applied

3. It shall be lawful for the board of guardians of any union in Ireland to provide a coffin for the burial of any deceased person who at the time of his or her death shall have been receiving relief out of the workhouse at the charge of the said union or any electoral division therein, or who shall have been at the time of his or her death dependent for support on any person receiving such relief, and to charge the cost of providing such coffin to the union at large or electoral division to which such relief shall have been chargeable, as the case may be.

Boards of Guardians may provide coffins for burial of persons who at the time of death were receiving out-door relief.

Former Acts
and this Act to
be construed as
one.

4. The several Acts now in force for the relief of the destitute poor in Ireland and this Act shall be construed as one Act, except so far as the provisions of any one of such Acts may repeal or alter the provisions of any previous Act.

[S. 5 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER XXVI.

AN ACT to remove Difficulties in the Appointment of Collectors of Grand Jury Cess in Ireland in certain Cases, and to remove Doubts as to the Jurisdiction of the Divisional Justices of the Police District of Dublin Metropolis relating to the Recovery of Poor Rates and other Cases.

[30th June 1848.]

[*Recital of 6 & 7 Will. 4. c. 116. ss. 147, 148 in part.*] And whereas it has sometimes happened that properly qualified persons could not be duly appointed at the assizes to act as high constables or collectors for certain baronies or places, by reason of such persons not presenting themselves at the assizes to accept such appointment, or by reason of persons appointed to such office not being able to perfect their securities at the assizes; and it may also happen that a vacancy in the office of high constable or collector may occur in the interval between the general quarter sessions which takes place next before the assizes and the first day of such assizes, whereby the public cess then unpaid cannot be collected on or before such ensuing assizes; and it is expedient to make provision in such cases, and to enable the grand jury to increase the amount of the collector's poundage to the extent and in the cases herein-after mentioned:

Appointment
of high
constables and
collectors of
cess, &c., by
quarter
sessions where
not appointed
by grand jury.

[1.] In every case in which for any of the reasons aforesaid, or for any other cause, it shall have happened or shall hereafter happen that any grand jury of any county, county of a city, or county of a town in Ireland shall not have at any assizes appointed a high constable or collector of cess for each barony of such county, or for such county of a city, or county of a town, or if any case of a vacancy shall occur or exist after the assizes and before the first ensuing general quarter sessions of the peace, or in case it shall happen that a vacancy in the office of high constable or collector shall take place or exist in the interval between the said first general quarter sessions of the peace and the first day of the then next ensuing assizes, as the case may be, it shall be lawful for the justices of the peace of the said county, county of a city, or county of a town, at any general quarter sessions of the peace or adjournment thereof, or in case of a vacancy occurring or existing between the said first general quarter sessions and the first day of the ensuing assizes as aforesaid, then at a special sessions of the peace, to be called by the clerk of the peace in two days after the receipt of the written

requisition of the treasurer for the purpose, at the county or assize town or sessions town of the division in which such barony is situate, (giving six days notice thereof to such justices resident in such division,) to appoint a fit and proper person to be high constable or collector of cess as aforesaid for any barony of such county, county of a city, or county of a town, for which no such high constable or collector of cess shall have been appointed at the assizes by the grand jury, or for which such vacancy shall occur or exist in manner aforesaid, as the case may be; and it shall be lawful for any such person so appointed to give such security as aforesaid before such justices, in like manner as directed by the said recited Act; and in case any person appointed as aforesaid by the grand jury at the assizes shall not have given security before such grand jury, as by the said recited Act required, it shall be lawful for such person so appointed to give such security before the justices of the peace of such county, county of a city, or county of a town, at the next general or quarter sessions of the peace for the division of the county in which such barony is situate; or in default thereof it shall be lawful for such justices, at any general or quarter sessions of the peace, or adjournment thereof, for such county, or at such special sessions as aforesaid, to appoint some other fit and proper person to act as high constable or collector for such barony or place, in lieu of the person so appointed by the grand jury; and it shall be lawful for the person so appointed by such justices to give such security as aforesaid before such justices at such sessions, in the like manner as if the same were given at the assizes before the grand jury; and all the provisions of the said recited Act, or any Act amending the same, or of any other Act or Acts, relating to any such high constables or collectors of cess, shall be extended and applied to any high constable or collector of cess appointed and giving security as aforesaid, or only giving security as aforesaid, under the provisions of this Act, as fully and effectually as if he were a high constable or collector of cess duly appointed by and giving security before the grand jury at the assizes under the provisions of the said recited Act.

Power to take security at quarter sessions.

2. If any such vacancy as aforesaid shall have occurred by the death of the high constable or collector, the personal representatives of the deceased high constable or collector shall, previous to such general or special sessions, as the case may be, deliver over to the treasurer of the county the warrants issued by him to the said collector, together with all applotments that may have been made of the sum or sums specified in the said warrant; and the deputies appointed by the said high constable or collector are hereby required to attend at such general or special sessions, as the case may be, and to produce and deliver to the said justices accounts of the several sums received by them respectively under and by such warrants and applotments, specifying the sum paid by each person named in such applotments, and the sum still remaining due and unpaid,

Personal representatives of deceased high constable or collector to deliver last warrants to the treasurer of the county, together with the applotments made, and deputies to account for sums received.

and the names of the persons by whom the same are owing; and each deputy shall make an affidavit before the said justices (who are hereby authorized to take the same) of the truth of such accounts, which accounts and affidavits the said justices shall also transmit to the treasurer of the county; and in case any such personal representative of such deceased high constable or collector, or any such deputy or deputies, shall neglect or refuse to deliver over the said warrants and applotments, and any money or monies received by them, and all applotments or other documents relating to the collection of such public cess, or refuse to make the affidavit, as directed by this Act, such personal representative or representatives, and deputy or deputies, shall forfeit the sum of fifty pounds, to be recovered, in the name of the treasurer of the county, by civil bill, before the assistant barrister of such county, for the use of such county.

Allowance of
poundage to
personal
representative.

3. The personal representatives of such high constable or collector duly paying such sum or sums of money as have been collected into the county bank on or before the first day of the next assizes, and on his or their producing to the grand jury the treasurer's certificate of such sum or sums of money having been so paid, it shall be lawful for the grand jury to present, without any previous application to presentment sessions, a sum not exceeding the sum allowed by law as poundage on the amount so paid into the county bank, to be paid to the personal representatives of such high constable or collector.

[S. 4 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Bonds, &c.
deemed good
against sureties
as well as
against high
constables or
collectors,
whether given
at assizes or
sessions, &c.

5. Any bond and warrant of attorney to confess judgment of any high constable or collector, executed or purporting to be executed pursuant to the said recited Act or this Act, and any judgment entered up on the same, shall be good and valid to all intents and purposes, as well against the said high constable or collector as his sureties, whether the said bond or warrant shall have been given at the assizes before the grand jury by whom such high constable or collector shall have been appointed, or before the justices of the peace at any general quarter sessions of the peace, or any adjournment thereof, or such special sessions as aforesaid, and whether such high constable or collector shall have been appointed by the grand jury at any assizes, or at any quarter sessions, or adjournment thereof, and shall have subsequently qualified and given such security at a subsequent quarter sessions, or adjournment thereof, or at such special sessions as aforesaid.

The divisional
justices of
Dublin to have
powers of
county justices
as to recovery
of poor rates.

6. [Recital of 6 & 7 Will. 4. c. 116. s. 152; 1 & 2 Vict. c. 56. s. 73; 6 & 7 Vict. c. 92. s. 2.] The several divisional justices of the police district of Dublin Metropolis shall, for the purposes of the Poor Relief (Ireland) Act, 1838, and of the Poor Relief (Ireland) Act, 1842, and of all and every other Act or Acts heretofore made or hereafter to be made with respect to the raising, levying, or enforcing payment of any rate for the

relief of the destitute poor in Ireland, have and exercise the same powers, authorities, and jurisdiction, within the police district of Dublin Metropolis, as any justice or justices of the peace of any county has or have or can have or exercise within his or their respective county in respect to any rates made or to be made for relief of the destitute poor in Ireland; and wherever, in any Act now in force or which shall hereafter be in force in Ireland, any proceeding, matter, or thing is or shall be authorized or directed to be taken, entertained, inquired into, or done by a justice or justices of the peace at petty sessions, or by justices of the peace of any county, county of a city, county of a town or place, or by justices of the peace, or any two or more of them met and assembled, the said divisional justices of the police district of Dublin Metropolis, or any one or more of them, shall have and shall and may exercise all such powers and authorities and jurisdictions, at the several divisional police offices within such police district of Dublin Metropolis at which such divisional justices or justice shall at the time be respectively presiding or officiating, as any justice or justices at petty sessions, or any justice or justices as aforesaid, are or shall be authorized or directed to have or exercise within their respective jurisdictions.

Such justices to have power to act at their respective offices in all cases as justices at petty sessions.

7. It shall and may be lawful for the several collectors of grand jury cess in the county of the city of Dublin to collect, levy, sue for, and recover the grand jury cess of such county of the city of Dublin, or any part of the same, from all and every persons and person who now are or is or hereafter shall be liable to pay the same, by all the ways and means, and with the like remedies and powers in case of nonpayment, as the grand jury cess, or the money apportioned on the several persons liable to pay the same, may be collected and levied in any other county in Ireland.

Powers for the recovery of grand jury cess in Dublin.

8. The divisional justices of the police district of Dublin Metropolis shall, for the purposes of all and every Act or Acts heretofore made or hereafter to be made with respect to the raising, levying, or enforcing payment of grand jury cess in the county of the city of Dublin, have and exercise the same powers, authorities, and jurisdiction, within the police district of Dublin Metropolis, as any justice or justices of the peace of any county in Ireland has or have or can or shall lawfully have or exercise, within his respective county, with respect to any grand jury cess to be raised within the same.

Divisional justices of Dublin to have powers of county justices as to grand jury cess.

[S. 9 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XXVIII.

AN ACT to amend the Law of Imprisonment for Debt in Ireland, and to improve the Remedies for the Recovery of Debts . . . [22d July 1848.]

[*Preamble.*]

[S. 1 *rep.* 35 & 36 *Vict. c.* 57. *s.* 6. S. 2 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.) Ss. 3, 7, 8 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.) Ss. 4-6 *rep.* 14 & 15 *Vict. c.* 57. *s.* 1.]

Tools and actual necessities of judgment debtors, not exceeding 5*l.* in value, not to be seized in execution.

9. [*Recital.*] The wearing apparel and bedding of any debtor in Ireland under a judgment, or order, or of his family, and the tools and implements of his trade, the value of such apparel, bedding, tools, and implements not exceeding in the whole the value of five pounds, shall not be liable to seizure under any execution or order of any court against his goods and chattels.

[Ss. 10-14 *rep.* 14 & 15 *Vict. c.* 57. *s.* 1. S. 15 *rep.* 41 & 42 *Vict. c.* 79. (S.L.R.) Ss. 16, 17 *rep.* 13 & 14 *Vict. c.* 102. *s.* 60.]

Interpretation.

18. In construing this Act, unless the context or nature of the provision shall exclude such construction, words importing the singular number only shall extend to several persons or things as well as to one person or thing; and words importing the plural number shall extend to one person or thing as well as to several persons or things . . .

[S. 19 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.) Ss. 20, 21 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XXIX.

AN ACT to enable Persons having a Right to kill Hares in England and Wales to do so, by themselves or Persons authorized by them, without being required to take out a Game Certificate. . . . [22d July 1848.]

[*Preamble recites* 3 & 4 *Vict. c.* 17.]

Owners, occupiers and persons authorized by them, may kill hares without a game certificate.

[1.] It shall be lawful for any person, being in the actual occupation of any inclosed lands, or for any owner thereof who has the right of killing game thereon, by himself or by any person directed or authorized by him in writing, according to the form in the schedule to this Act annexed, or to the like effect, so to do, to take, kill, or destroy any hare then being in or upon any such inclosed lands . . . without the obtaining of an annual game certificate.

Limitations of authority.

2. Provided always, that no owner or occupier of land as aforesaid shall be authorized to grant or continue, under the provisions of this Act, authority to more than one person, at one and

the same time, to kill hares upon his land within any one parish; and that he shall deliver the said authority, or a copy thereof, or cause the same to be delivered, to the clerk of the magistrates acting for the petty sessions division within which the said lands are situate, who shall forthwith register the same, and the date of such registration, in a book to be kept by him for such purpose, . . . ; and the said authority, so soon as it shall have been registered as aforesaid, shall be held good until after the first day of February in the year following that within which the same is granted, unless the same be previously revoked, and notice of such revocation be given to the clerk of the magistrates as aforesaid; and the said registered authority, or the unrevoked register thereof, shall be good and sufficient evidence of the right of the person to whom authority is given by the same to kill hares upon the lands mentioned within the same without having obtained an annual game certificate.

3. No person so directed or authorized to kill any hare as aforesaid shall, unless otherwise chargeable, be liable to any duties of assessed taxes as gamekeeper.

Persons authorized not be liable to tax as gamekeepers.

[*S. 4 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

5. Provided also, that nothing herein contained shall extend or be taken or construed to extend to the making it lawful for any person, with intent to destroy or injure any hares or other game, to put or cause to be put any poison or poisonous ingredient on any ground, whether open or inclosed, where game usually resort, or in any highway, or for any person to use any fire-arms or gun of any description by night, for the purpose of killing any game or hares.

Provision as to laying of poison and use of fire-arms by night.

6. Provided also, that where any tenant of any land for life or lives, years, or otherwise, now is or hereafter shall be bound by any agreement not to take, kill, or destroy any game upon any lands included in such agreement, then and in all such cases nothing herein contained shall extend or be taken or construed to extend to authorize or empower such tenant to take, kill, or destroy any hare upon any such lands so included in such agreement, or to authorize any other person to kill or destroy any hare upon any such lands.

Saving as to agreements not to kill game.

7. In the interpretation of this Act the singular number shall extend to several persons and things as well as to one person or thing; and any word importing the plural number shall apply to one person or thing as well as to several persons or things; and every word importing the masculine gender only shall extend to a female as well as a male; and the word "agreement" shall include any covenant, proviso, promise, undertaking, condition, or reservation; and the word "parish" shall include any hamlet, township, tithing, or extra-parochial place; and for the purposes of this Act the word "night" shall be considered and is hereby declared to commence at the expiration of the first hour after

Interpretation.

sunset, and to conclude at the beginning of the last hour before sunrise.

Extent of Act.

8. This Act shall extend to that part of the United Kingdom called England and Wales.

[S. 9 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

Sect. 1.

SCHEDULE.

I *A.B.* do authorize *C.D.* to kill hares on ["my lands," or "the lands occupied by me," as the case may be], within the of [here insert the name of the parish or other place, as the case may be]. Dated this . . . day of . . . [here insert the day, month, and year].

A.B.

Witness.

CHAPTER XXX.

AN ACT to enable all Persons having at present a Right to kill Hares in Scotland to do so themselves, or by Persons authorized by them, without being required to take out a Game Certificate. [22d July 1848.]

[Preamble recites 3 & 4 *Vict.* c. 17.]

Any person having a right to kill hares may do so, or authorize others to do so, without game certificate.

[1.] It shall be lawful for any person having at present a right to kill hares in Scotland to do so himself, or by any person permitted, directed, or commanded by him by any writing under his hand . . . without obtaining an annual game certificate: Provided always, that such hares shall be found and killed in or upon his own land; provided also, that no person permitted, directed, or commanded as aforesaid shall have power to authorize any other person whatever to take or destroy any hare.

Persons so authorized not to be liable to tax on game-keepers.

2. No person so permitted, directed, or commanded to kill hares as aforesaid shall, unless otherwise chargeable, be liable to any duties of assessed taxes as gamekeeper.

[S. 3 *rep.* 54 & 55 *Vict.* c. 67. (S.L.R.)]

Provision as to laying poison and use of fire-arms by night.

4. Provided always, that nothing herein contained shall extend or be taken or construed to extend to the making it lawful for any person, with intent to destroy or injure any hares or other game, to put or cause to be put any poison or poisonous ingredient on any ground, whether open or enclosed, where game usually resort, or in any highway, or for any person to use any fire-arms or gun of any description by night, for the purpose of killing any game or hares.

Interpretation.

5. In the interpretation of this Act the singular number shall extend to several persons and things as well as to one person or

thing; and any word importing the plural number shall apply to one person or thing as well as to several persons or things; and every word importing the masculine gender only shall extend to a female as well as a male; and the word "night" shall be considered and is hereby declared to commence at the expiration of the first hour after sunset, and to conclude at the beginning of the last hour before sunrise.

6. This Act shall not extend to England and Ireland.

Extent of Act.

[S. 7 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XXXI.

AN ACT to amend the Procedure in respect of Orders for the Removal of the Poor in England and Wales, and Appeals therefrom.^[1] [22d July 1848.]

[Preamble.]

[S. 1 (repealing so much of 4 & 5 Will. 4. c. 76. s. 79, as provides in cases of orders of removal that the notice thereby required to be sent by the overseers or guardians of the parish obtaining the order shall be accompanied by a copy of the examination upon which the order of removal was made) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

2. Instead thereof such notice shall be accompanied by a statement in writing under the hands of such overseers or such guardians, or any three or more of such guardians, setting forth the grounds of such removal, including the particulars of the settlement or settlements relied upon in support thereof: Provided always, that on the hearing of any appeal against any order of removal it shall not be lawful for the respondents to go into or give evidence of any other grounds of removal than those set forth in such statement.

Notice of removal order to be accompanied by a statement of grounds of removal.

3. The clerk to the justices who shall make any order of removal shall keep the depositions upon which such order was made, and shall within seven days furnish a copy of such depositions to the overseers or guardians as aforesaid of the parish to which the removal is by such order directed to be made, if such overseers or such guardians shall apply for such copy, and pay for the same at the rate of two-pence for every folio of seventy-two words; provided that no omission or delay in furnishing such copy of the depositions shall be deemed or construed to be any ground of appeal against the order of removal; provided also, that on the trial of any appeal against an order of removal no such order shall be quashed or set aside, either wholly or in part, on the ground that such depositions do not furnish sufficient evidence to support, or that any matter

Clerk to justices making the order to keep depositions, and furnish a copy on application to overseers, &c. of parish to which removal is ordered.

[¹ Short title, "The Poor Law Procedure Act, 1848." See 55 & 56 Vict. c. 10.]

therein contained or omitted raises an objection to, the order or grounds of removal.

On appeal against order of removal, no objections to statement, &c. to prevail, unless court be of opinion that statement is insufficient.

Power for court to amend.

Costs where frivolous or vexatious grounds included in statement.

4 & 5 Will 4. c. 76.

Decision of court, upon hearing of appeal, statement, to be final.

Orders of removal, whether appealed against or not, may be abandoned by overseers, &c.

4. [*Recital.*] Upon the hearing of any appeal against an order of removal no objection whatever on account of any defect in the form of setting forth any ground of removal or of appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of a ground of removal or appeal alleged to be set forth in any such statement shall prevail, unless the court shall be of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial: Provided always, that in all cases where the court shall be of opinion that any such objection to such statement or to the reception of evidence ought to prevail, it shall be lawful for such court, if it shall so think fit, to cause any such statement of grounds of removal or appeal to be forthwith amended by some officer of the court or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions or to the next subsequent sessions, or both payment of costs and postponement, as to such court shall appear just and reasonable.

5. If either of the parties to the said appeal shall have included in the statement of grounds of removal or of appeal sent to the opposite party any ground or grounds of removal or of appeal, which shall, in the opinion of the court determining the appeal, be frivolous and vexatious, such party shall be liable, at the discretion of the said court, to pay the whole or any part of the costs incurred by the other party in disputing any such ground or grounds, such costs to be recovered in the same manner as any penalties or forfeitures are recoverable under the Poor Law Amendment Act, 1834.

[*S. 6 (authorizing amendment of order of removal on appeal or on return to writ of certiorari) rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

7. The decision of the court upon the hearing of any appeal against any order of removal, as well upon the sufficiency and effect of the statement of the grounds of removal and of appeal, and of the notice of chargeability, and of the copy or counterpart of the order of removal sent to the appellant parish, as upon the amending or refusing to amend the order of removal as aforesaid or the statement of grounds of removal or appeal, shall be final, and shall not be liable to be reviewed in any court, by means of a writ of certiorari or mandamus, or otherwise.

8. In any case in which an order shall have been made for the removal of any poor person, and a copy or counterpart thereof sent as by law required, it shall and may be lawful for the overseers or guardians of the parish who shall have obtained such order of removal, whether any notice of appeal against such order shall or shall not have been given, and whether any appeal shall have been entered or not, to abandon such order by notice in writing under the hands of such overseers or guardians, or

any three or more of such guardians, to be sent by post or delivered to the overseers or guardians as aforesaid of the parish to which such person is by the said order directed to be removed; and thereupon the said order and all proceedings consequent thereon, shall become and be null and void to all intents and purposes, as if the same had not been made, and shall not be in any way given in evidence in case any other order of removal of the same person shall be obtained: Provided always, that in all cases of such abandonment the overseers or guardians of the parish so abandoning shall pay to the overseers or guardians of the parish to which such person is by the said order directed to be removed the costs which the said last-mentioned overseers or guardians shall have incurred by reason of such order, and of all subsequent proceedings thereon, which costs the proper officer of the court before whom any such appeal (if it had not been abandoned) might have been brought shall and he is hereby required, upon application, to tax and ascertain at any time, whether the court shall be sitting or not, upon production to him of such notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the overseers or guardians abandoning such order as the distance between the parishes shall in his judgment require, and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be endorsed upon the said notice of abandonment, and the said notice so indorsed shall be filed among the records of the said court; and if the said costs so allowed be not paid within ten days after such costs shall have been lawfully demanded, the amount thereof may be recovered from such last-mentioned overseers or guardians in the same manner as any penalties or forfeitures are recoverable under the Poor Law Amendment Act, 1834.

Costs in case
of abandon-
ment.

4 & 5 Will 4.
c. 76.

9. No appeal shall be allowed against any order of removal if notice of such appeal be not given, as required by law, within the space of twenty-one days after the notice of chargeability and statement of the grounds of removal shall have been sent by the overseers or guardians of the removing parish to the overseers or guardians of the parish to which such order shall be directed, unless within such period of twenty-one days a copy of the depositions shall have been applied for as aforesaid by the last mentioned overseers or guardians, in which case a further period of fourteen days after the sending of such copy shall be allowed for the giving of such notice of appeal; but in such case no poor person shall be removed under such order of removal until the expiration of such further period of fourteen days.

Limitation of
appeals.

10. All the provisions which relate to the sending and service of copies of orders of removal shall apply to such orders when suspended, and to all orders consequent upon such suspension, and to all copies of charges arising thereon, and demands of payment of such charges.

Service of sus-
pended orders
of removal, &c.

Construction.
4 & 5 Will. 4.
c. 76.

11. The Poor Law Amendment Act, 1834, and all Acts to amend and extend the same, and the present Act, shall (except so far as the provisions of any former Act are altered, amended, or repealed by any subsequent Act) be construed as one Act.

[*Ss. 12, 13 rep. 38 & 39 Vict. c. 66. (S.L.R.).*]

CHAPTER XXXII.

AN ACT to facilitate the Collection of County Cess in Ireland.^[1]
[22d July 1848.]

[*Preamble recites 6 & 7 Will. 4. c. 116; 11 & 12 Vict. c. 26.*]

Appointment
of collectors for
districts.

[1.] In case it shall appear to the grand jury of any county assembled at the summer assizes of this present year, or to the magistrates assembled at a special sessions of the peace, as herein-after directed, that a collector cannot be procured to collect for an entire barony, then it may be lawful for such grand jury, or for the magistrates at such special sessions, to appoint duly qualified persons for such convenient districts as to them may seem fit, provided that such districts together comprise the whole barony.

On failure of
grand jury to
appoint, or on
vacancies,
justices may
appoint col-
lectors.

2. In every case in which it shall have happened that any grand jury at such summer assizes shall not have appointed a high constable or collector of cess for any barony of such county, or if any case of vacancy shall occur or exist after such assizes and before the first day of the next ensuing assizes, it shall be lawful for the justices of the peace of the said county, at any general quarter sessions of the peace or adjournment thereof, or at a special sessions of the peace, to be called by the clerk of the peace in two days after the receipt of the written requisition of the treasurer for the purpose, at the county or assize town or sessions town of the division in which such barony is situate, (giving six days notice thereof to such justices resident in such division,) to appoint a fit and proper person to be collector of cess as aforesaid for any district of any barony of such county for which no such high constable or collector of cess shall have been appointed at the assizes by the grand jury, or for which such vacancy shall occur or exist in manner aforesaid, as the case may be; and it shall be lawful for any such person so appointed to give such security as aforesaid before such justices in like manner as directed by the said recited Acts or either of them; and in case any person appointed as aforesaid by the grand jury at the assizes shall not have given security before such grand jury, as by the said first-recited Act required, it shall be lawful for such person so appointed to give such security before the justices of the peace of such county, at the next

[¹ Short title, "The County Cess (Ireland) Act, 1848." See 55 & 56 Vict. c. 10. This Act is amended by 20 & 21 Vict. c. 7, and has been continued by the Expiring Laws Continuance Acts.]

general or quarter sessions of the peace for the division of the county in which such barony is situate, or at any special sessions; or in default thereof it shall be lawful for such justices, at any general or quarter sessions of the peace, or adjournment thereof, for such county, or at such special sessions as aforesaid, to appoint some other fit and proper person to act as collector for any district of such barony or place, in lieu of the person so appointed by the grand jury; and it shall be lawful for the person so appointed by such justices to give such security as aforesaid before such justices at such sessions, in the like manner as if the same were given at the assizes before the grand jury; and all the provisions of the said recited Act, or any Act amending the same, or of any other Act or Acts, relating to any such high constables or collectors of cess, shall be extended and applied to any collector of cess appointed and giving security as aforesaid, or only giving security as aforesaid, under the provisions of this Act, as fully and effectually as if he were a high constable or collector of cess duly appointed by and giving security before the grand jury at the assizes under the provisions of the said recited Act; and the warrant of the treasurer of such county issued to the collector of each such district (which warrant such treasurer is hereby authorized and required to issue) shall be of the same validity and force as if it had been issued to a high constable or collector appointed under the provisions of the said recited Acts or either of them.

3. Any person duly authorized to collect and levy the grand jury cess under this Act shall, on or before the first day of every month, or so often as he shall have received one hundred pounds, pay into the county bank, to the credit of the treasurer of the county, the sums he may have received up to such period, and shall furnish to the treasurer of the county an account of the sums so received and paid in.

Payment of
collections into
bank.

[S. 4 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

CHAPTER XXXVI.

AN ACT for the Amendment of the Law of Entail in Scotland.^[1]
[14th August 1848.]

[*Preamble.*]

[1.] Where any estate in Scotland shall be entailed by a deed of tailzie dated on or after the first day of August one thousand eight hundred and forty-eight, it shall be lawful for any heir of entail born after the date of such tailzie, being of full age, and in possession of such entailed estate by virtue of such tailzie, to acquire such estate, in whole or in part, in fee simple, by

Heir of entail
born after
the date of any
future entail,
may disentail
the estate.

[¹ Short title, "The Entail Amendment Act, 1848." See 55 & 56 *Vict.* c. 10.]

Heir born
before may do
so with consent
of next heir
apparent born
after date of
entail.

applying to the Court of Session for authority to execute, and executing, and recording in the register of tailzies, under the authority of the court, an instrument of disentail in the form and manner herein-after provided; and it shall be lawful for any heir of entail, being of lawful age, and in possession of such entailed estate by virtue of such tailzie, though born before the date of such tailzie, with the consent, and not otherwise, of the heir next in succession, being heir apparent under the entail of the heir in possession, to acquire such estate, in whole or in part, in fee simple, by applying to the court for authority to execute, and executing, and recording in the register of tailzies, under the authority of the court, an instrument of disentail in the form and manner herein-after provided: Provided always, that such consent to such instrument of disentail shall not be valid and effectual unless granted by a person of the age of twenty-five years complete, not subject to any legal incapacity, and born after the date of the tailzie to which such instrument applies.

Heir in posses-
sion under an
existing entail,
born after 1st
August, 1848,
may disentail.

2. Where any estate in Scotland is held by virtue of any tailzie dated prior to the said first day of August one thousand eight hundred and forty-eight, it shall be lawful for any heir of entail born on or after the said first day of August, being of full age, and in possession of such entailed estate by virtue of such tailzie, to acquire such estate, in whole or in part, in fee simple, by applying to the Court of Session for authority to execute, and executing, and recording in the register of tailzies, under the authority of the court, an instrument of disentail in the form and manner herein-after provided; and it shall be lawful for any heir of entail, though born before the said first day of August one thousand eight hundred and forty-eight, being of full age, and in possession of such entailed estate by virtue of such tailzie dated prior to the said first day of August, with the consent (and not otherwise) of the heir next in succession, being heir apparent under the entail of the heir in possession, he being born on or after the said first day of August one thousand eight hundred and forty-eight, and being of the age of twenty-five years complete at the time of granting such consent, and not subject to any legal incapacity, to acquire such estate, in whole or in part, in fee simple, by executing, under authority of the court, an instrument of disentail as aforesaid, in the form and manner herein-after provided.

Heir born
before may do
so with con-
sent of heir
next, heir
apparent under
the entail, born
after 1st
August, 1848
of the age of
25.

3. It shall be lawful for any heir of entail, being of full age, and in possession of an entailed estate in Scotland . . . to acquire such estate, in whole or in part, in fee simple, by applying to the Court of Session for authority to execute, and executing, and recording in the register of tailzies, under the authority of the court, an instrument of disentail in the form and manner herein-after provided: Provided always, that such heir of entail in possession shall be the only heir of entail in existence for the time, . . . or otherwise shall have obtained the consents of the whole heirs of entail, if there be less than three in being at

Heir of entail
under an exist-
ing entail may
disentail, with
certain con-
sents.

the date of such consents and at the date of presenting such application, or otherwise shall have obtained the consents of the three nearest heirs who at the said dates are for the time entitled to succeed to such estate in their order successively immediately after such heir in possession, or otherwise shall have obtained the consents of the heir apparent under the entail, and of the heir or heirs, in number not less than two, including such heir apparent, who in order successively would be heir apparent: Provided also, that the nearest heir of entail for the time entitled to succeed to such estate immediately after such heir in possession, where any such other heir exists, shall be of the age of twenty-five years complete, and not subject to any legal incapacity.

4. It shall be lawful for any heir of entail, being of full age, and in possession of an entailed estate in Scotland, with such and the like consents as by this Act would enable him to dis-entail such estate, to sell, alienate, dispoise, charge with debts or incumbrances, lease, and feu such estate, in whole or in part, and that unconditionally, or subject to conditions, restrictions, and limitations, according to the tenor of such consents, the authority of the Court of Session being always obtained thereto in the form and manner herein-after provided; and such heir of entail shall be entitled to make and execute, at the sight of the court, all such deeds of conveyance and other deeds as may be necessary for giving effect to the sales, dispositions, charges leases, or feus, so made and granted.

Power of heir of entail to sell, charge, lease, and feu.

5. It shall be lawful for any heir of entail, being of full age, and in possession of an entailed estate in Scotland . . . with the consent of the whole heirs of entail, if there be less than three in being at the date of such consents and at the date of presenting application for the authority of the court as after mentioned, or otherwise with the consent of the three nearest heirs who at the said dates are for the time entitled to succeed to such estate in their order successively immediately after such heir in possession, or otherwise with the consent of the heir apparent under the entail, and of the heir or heirs, in number not less than two, including such heir apparent, who in order successively would be heir apparent, to excamb such estate, in whole or in part, the authority of the Court of Session being always obtained thereto in the form and manner herein-after provided; and such heir of entail in possession shall be entitled to make and execute, at the sight of the court, all such contracts of excambion and other deeds as may be necessary in order to give effect to such excambions, by the substitution of the lands to be acquired in the room and place in all respects of the lands to be disposed.

Power of heir of entail under existing entail to excamb.

6. Where any heir of entail in possession of an entailed estate in Scotland shall apply to the Court of Session under this Act in order to disentail such estate, in whole or in part, or to sell,

Heir of entail applying to di-entail, &c. shall disclose

the debts, and provisions for husbands, widows, or children, affecting the estate.

Court may order intimation to be made to the parties interested; and may make provision for protecting their rights.

Creditors in entail's debts &c. using inhibition not to be affected by instrument of disentail.

Settlements by marriage contract not to be disappointed.

alienate, dispoſe, charge with debts or incumbrances, lease, feu, or exchang the ſame or any part thereof, he ſhall make and produce in ſuch application an affidavit ſetting forth that there are no entail's debts or other debts, and no provisions to husbands, widows, or children, affecting or that may be made to affect the fee of the ſaid entailed eſtate or the heirs of entail, or, if there are ſuch debts or provisions, ſetting forth the particulars of the ſame, with the amounts thereof reſpectively, principal, intereſt, and expences, and the vouchers by which the ſame are inſtructed, and the names, designations, and reſidences of the parties in right of the ſame; and the court ſhall not proceed with ſuch application until ſuch affidavit is lodged; and, if the court ſhall ſee cauſe, intimation of ſuch application may be ordered to be made to the parties in right of the ſaid debts or provisions or any of them, with a view to ſuch parties appearing for their intereſt, if they ſhall ſee fit; and it ſhall be lawful for the court to order ſuch provision as may appear juſt to be made for ſuch debts or provisions, or for the protection of the parties in right of the ſame, before granting the authority ſought for in ſuch application, or as the condition of granting the ſame; and any perſon who ſhall wilfully make ſuch affidavit falſely ſhall be deemed to be guilty of perjury, and be puniſhable accordingly.

7. Any party in right of an entail's debt or of any other debt, or of any provision to a husband, widow, or younger child, affecting or that may be made to affect the fee of any entailed eſtate in Scotland, and who before the expiry of one year from the date of recording an inſtrument of diſentail of ſuch eſtate in the register of tailzies ſhall uſe and record inhibition in reference to ſuch debt againſt the heir of entail in poſſeſſion of ſuch eſtate for the time, ſhall be entitled to affect ſuch eſtate in reſpect of ſuch debt or provision as if no ſuch inſtrument of diſentail had been recorded as aforeſaid; and no debt or charge on ſuch eſtate, or right whatſoever therein, which would not have competed with ſuch debt or provision had ſuch inſtrument of diſentail not been recorded, ſhall be allowed to compete therewith by reaſon of the recording of ſuch inſtrument of diſentail.

8. Where any heir of entail in poſſeſſion of an entailed eſtate in Scotland holden by virtue of any tailize dated prior to the ſaid firſt day of Auguſt one thouſand eight hundred and forty-eight, or the heir apparent to ſuch eſtate, ſhall, together or ſeparately, have ſecured by obligation in any marriage contract the deſcent of ſuch eſtate upon the iſſue of the marriage in reference to which ſuch contract is entered into, it ſhall not be competent for ſuch heir of entail in poſſeſſion, or heir apparent, or either of them, to apply for or to conſent to the diſentail of ſuch eſtate, until there ſhall be born a child of ſuch marriage capable of taking the eſtate in terms of ſuch contract, and who, by himſelf or his guardian, ſhall conſent to ſuch diſentail; or until ſuch marriage ſhall be diſſolved without ſuch child being born, unleſs the trustee or trustees named in ſuch contract, or

the party or parties at whose sight the provisions of the contract are directed to be carried into execution, shall concur in such application or consent.

9. Where any heir of entail called to the succession of an entailed estate in Scotland by any tailzie dated prior to the said first day of August one thousand eight hundred and forty-eight shall have borrowed money previous to the passing of this Act on the security or credit of his right of succession to or interest in such entailed estate, such heir shall not be entitled to give consent to any application under this Act which shall be opposed by any creditor to whom such heir stands indebted in respect of money borrowed as aforesaid, and who shall either hold infetment in the entailed estate, duly recorded, in security of his said debt, or shall enter appearance, and prove the same, in the course of the proceedings under such application: Provided always, that it shall be competent to the Court of Session, if, with reference to any offer of adequate security, or otherwise in the circumstances, it shall deem the opposition on the part of such creditor to be unreasonable, to disallow the same, and to give effect to the consent of such heir.

Heirs of entail under existing entails not to give consent in opposition to creditors in debts now existing.

Court may disallow opposition of creditors.

10. Where any heir apparent of an entailed estate in Scotland under a tailzie dated prior to the said first day of August one thousand eight hundred and forty-eight shall subsequent to the passing of this Act borrow money on the security or credit of his right of succession to or interest in such entailed estate, such heir apparent shall not be entitled to give consent to any application under this Act, except under the like circumstances as would have enabled him to give consent, and to have his consent allowed, had such money been borrowed previous to the passing of this Act; but the consents of the other heirs substitute shall be given and allowed independently of the rights of any such creditors.

Power of heir apparent under existing entail to give consent in opposition to creditors restricted.

11. Any creditor of an heir of entail in possession of an entailed estate in Scotland who is by this Act empowered by himself alone, without the consent of any other party, to acquire such estate in fee simple, by executing and recording an instrument of disentail as aforesaid, shall be entitled to affect such estate for payment of debt, and have the same rights and interests therein as if such instrument of disentail had been duly executed and recorded, albeit such heir in possession may not have duly executed and recorded such instrument of disentail.

Saving of rights of creditor of an heir of entail in possession hereby empowered to disentail without consent.

[S. 12 rep. 31 & 32 Vict. c. 84. s. 5.]

13. Where an heir of entail in possession of an entailed estate holden by virtue of any tailzie dated prior to the said first day of August one thousand eight hundred and forty-eight shall have executed improvements on such estate previous to the passing of this Act, and shall have obtained decree for three fourth parts of the sums expended thereon, in terms of the Entail Improvement Act, 1770, and shall also have obtained the authority of the Court of Session as after mentioned, it shall be lawful for such

Heir under existing entail, having executed improvements under 10. Geo. 3. c. 51. may grant bond of annual rent over estate to secure repayment of

three fourths
with interest.

heir to execute, in favour of any party he may think fit, a bond of annual rent in ordinary form over such entailed estate or any portion thereof, binding himself and his heirs of tailzie to make payment of an annual rent during the period of his own life and twenty-five years thereafter, such annual rent during his own life not exceeding the legal interest of the said three fourth parts of the sums expended as aforesaid, and during the twenty-five years after his decease not exceeding the sum of seven pounds two shillings for every one hundred pounds of such three fourth parts as aforesaid, and so in proportion for any greater or less sum, and such annual rent being payable by equal moieties half-yearly at the terms of Whitsunday and Martinmas, beginning the first term's payment at the first term of Whitsunday or Martinmas after the date of the bond for the proportion of annual rent then due, with legal interest, and penalties in case of failure.

Heir of entail
expending
money in im-
provements
under 10 Geo.3.
c. 51, and
obtaining
decree for
three fourths
of expenses,
may grant bond
of annual rent.

14. Where an heir of entail in possession of an entailed estate . . . shall execute improvements on such estate subsequent to the passing of this Act, and obtain decree for three fourth parts of the sums expended thereon, in terms of the Entail Improvement Act, 1770, and shall also obtain the authority of the court as after mentioned, it shall be lawful for such heir of entail to execute, in favour of any party he may think fit, a bond of annual rent in ordinary form over such entailed estate or any portion thereof, binding himself and his heirs of tailzie to make payment of an annual rent during the period of twenty-five years from and after the date of such decree, or during such part of the said period of twenty-five years as may remain unexpired at the date of such bond, such annual rent not exceeding the sum of seven pounds two shillings for every one hundred pounds of the whole of the sums expended as aforesaid, and so in proportion for any greater or less sum, and being payable half-yearly by equal moieties at the terms of Whitsunday and Martinmas, beginning the first term's payment at the first term of Whitsunday or Martinmas after the date of the bond, for the proportion of annual rent then due, with legal interest, and penalties in case of failure.

Executor of
heir who has
spent money in
improvements,
and died with-
out executing
bond, may
apply to the
court for an
order on the
heir in
possession to
grant bond of
annual rent.

15. Where any heir of entail in possession of an entailed estate in Scotland shall have executed improvements on such estate prior to the passing of this Act, and recorded the same in terms of the said last recited Act, and died without having executed a bond of annual rent as herein-before authorized, or having charged the estate as herein-after authorized, and where decree shall have been obtained, in terms of the said last recited Act, for three fourth parts of the sums expended thereon, it shall be lawful for the executor or personal representative of such heir of entail, or for any party to whom such heir may have conveyed or assigned such debt, to make application by summary petition to the Court of Session, praying the court to decern and ordain the heir in possession of such entailed estate to execute, in favour of any

party such petitioner may think fit, a bond of annual rent in ordinary form over such entailed estate or any portion thereof, binding himself and his heirs of tailzie to make payment of an annual rent during the period of twenty-five years from the date of the death of the heir of entail who shall have executed the improvements, such annual rent not exceeding the sum of seven pounds two shillings for every one hundred pounds of such three fourth parts aforesaid, and so in proportion for any greater or less sum, and such annual rent being payable half-yearly by equal moieties at the terms of Whitsunday and Martinmas, beginning the first term's payment, notwithstanding the date of such bond of annual rent, at the first term of Whitsunday or Martinmas after the date of the death of the heir of entail who shall have executed the improvements, for the proportion of annual rent then due, with legal interest, and penalties in case of failure, which bond such heir of entail in possession shall be bound to execute accordingly at the sight of the court: Provided always, that the heir of entail in possession required to grant and granting such bond shall be entitled to impute towards payment of the sums thereby due any excess of sums which may have been paid by or recovered from him in payment of the said improvement debt beyond the amount of annual rents due from and after the decease of the heir who shall have executed such improvements.

16. Where an heir of entail in possession of any entailed estate . . . shall, whether prior or subsequent to the passing of this Act, have executed improvements on such estate of the nature of the improvements contemplated by the said last-recited Act, but shall not have obtained decree therefor in terms of the said Act, by reason of the provisions thereof not having been adopted or not having been duly complied with, it shall be lawful for such heir to apply by summary petition to the court in manner herein-after provided, setting forth such improvements, and the amount of money, not exceeding the amount authorized by the said Act, expended thereon, and praying the court for authority to grant bond of annual rent as is herein before provided in the case of improvements for which decree in terms of the said Act has been obtained; and the court shall, after such proceedings as they may think fit to direct or to adopt, proceed to consider such application, and to take such evidence, and institute such inquiry into the facts alleged in such petition, as they shall judge necessary; and if it shall appear to the court that such improvements are of the nature contemplated by the said Act, and that such expenditure was bonâ fide made, they shall find accordingly, and shall also grant warrant for execution of a bond of annual rent as herein provided in the cases of improvements for which decree in terms of the said Act has been obtained.

Application may be made to court for authority to grant bond, where improvements have been made, but the terms of 10 Geo. 3. c. 56. have not been complied with, and decree has not been obtained.

17. So long as any entailed estate remains subject to the tailzie thereof, or is not liable to be disentailed by the heir

While estate is subject to entail, bond of

annual rent shall not be ground of adjudication or eviction.

Annual rent, how to be recovered.

Annual rent to be kept down by heirs in possession.

Remedy of creditor in bond against rents of estate for arrears limited.

Heir of entail able or liable to grant bond of annual rent may charge the estate by granting a bond and disposition in security.

Such bonds to operate as discharges of all other claims on account of improvements.

of entail in possession without the consent of any other party, no bond of annual rent to be granted under the authority of this Act shall be made the ground of adjudication or eviction of such entailed estate or any part thereof; and the annual rents contained in such bond shall be recoverable as accords of law from and out of the rents and profits of such entailed estate, and from the heir in possession thereof for the time being: Provided always, that the heir in possession of any such entailed estate, and the heirs substitute to him, shall be bound, each during his own possession, yearly and each year to pay and keep down such annual rents accruing during their respective possessions of such entailed estate; and no remedy shall be competent to the creditor in such bond of annual rent against the rents and profits of the said estate for any arrears beyond two years annual rent, and interest thereon, and corresponding penalties; without prejudice to his remedy for such arrears against the heirs in possession respectively bound to pay and keep down the same, and against the representatives of such heirs, and the separate estates of such heirs, including the rents of such entailed estate during their respective periods of possession.

18. In all cases in which it may be competent for an heir of entail in possession of an entailed estate in Scotland, or in which such heir of entail may be called upon, to grant a bond of annual rent in terms of this Act, it shall be lawful for such heir of entail, and such heir of entail may be called upon, to charge under the authority of the Court of Session, as after mentioned, the fee and rents of such estate, other than the mansion house, offices, and policies thereof, or the fee and rents of any portion of such estate, other than as aforesaid, with two third parts of the sum on which the amount of such bond of annual rent, if granted, would be calculated in terms of this Act, by granting, in favour of any creditor who may advance the amount of such two third parts, bond and disposition in security over such estate, or any portion thereof, other than as aforesaid, for such amount, with the due and legal interest thereof from the date of such advance till repaid, and with corresponding penalties; and such bond and disposition in security may be in the like form, and shall have the like effect and operation, and be subject to the like conditions and provisions as to keeping down interest, and as to the extent of remedy against the fee and rents of the entailed estate, and otherwise, as are herein-after made and provided in regard to bonds and dispositions in security by this Act authorized to be granted in respect of provisions to younger children.

19. The granting under the authority of this Act of any bond of annual rent, or bond and disposition in security, in respect of any improvements executed or to be executed on an entailed estate in Scotland, shall operate as a discharge of all claims for or on account of such improvements, against such estate, and the rents and profits thereof, and the heirs of entail succeeding

thereto, save and except the claims under such bond of annual rent or bond and disposition in security themselves.

20. Private roads which shall from and after the first day of August one thousand eight hundred and forty-eight be made through any entailed estate, or by way of immediate access thereto, may be deemed to be improvements falling under the Entail Improvement Act, 1770, and also under this Act, in the same way and manner in all respects as inclosing, planting, and draining.

Private roads to be deemed improvements under 10 Geo. 3. c. 51. and under this Act.

21. In all cases where an heir of entail in possession of an entailed estate in Scotland shall be liable to pay or to provide by assignation of the rents and proceeds of such estate for any sum or sums of money granted by any former heir of entail by way of provisions to younger children, in terms of the Entail Provisions Act, 1824, or in virtue of the powers to that effect contained in any deed of entail under which the heir of entail in possession holds, and in all cases where any heir of entail in possession as aforesaid shall in the marriage contract of his younger child have validly granted provision for such younger child out of the rents and proceeds of such entailed estate, in terms of the said recited Act, or in terms of such deed of entail, it shall be lawful for such heir of entail in possession to charge the fee and rents of such estate, other than the mansion house, offices, and policies thereof, or to charge the fee and rents of any portion of such estate, other than as aforesaid, with the amount of such provisions, by granting bond and disposition in security over such estate, or such portion thereof, other than as aforesaid, for such amount, with the due and legal interest thereof from the date of such bond and disposition in security, or any subsequent date, till repaid, and with corresponding penalties; and such bond and disposition in security may be in ordinary form, binding the granter and his heirs of entail in their order successively to repay the principal sum therein, with interest and penalties as aforesaid, and may contain all clauses usual in bonds and dispositions in security granted over estates in Scotland held in fee simple.

Provisions to younger children under 5 Geo. 4. c. 87. or any deed of entail may be charged upon the entailed estate by bonds and dispositions in security.

22. Such heir of entail in possession, and the heirs substitute to him in their order successively, shall be bound, each during his own possession of such estate, yearly, and each year, to pay and keep down the interest on such bonds and dispositions in security accruing during their possession respectively of such entailed estate; and the remedy competent to the creditor against the fee and rents of such estate on such bonds and dispositions in security shall be limited to the principal sum therein contained, with two years interest thereon, and corresponding penalties; without prejudice to the remedy of the creditor for any further arrears of interest against the heir or heirs in possession bound to pay and keep down the same, and against his or their representatives, or his or their separate

Heirs in possession to keep down the interest on such bonds and dispositions in security.

Remedy of creditors against estates for arrears limited.

estate or estates, including the rents of the said entailed estate during his or their possession of the same.

Provisions to children not to be charged without authority of court.

23. No heir of entail in possession of an entailed estate shall charge the same under this Act with any provision to any younger child or children until he shall have applied for and obtained the authority of the court thereto in the form and manner herein-after provided; and such application to the court shall set forth in a schedule to be annexed thereto the specific portion of the estate which it is proposed to include in such bonds and dispositions in security.

Power to grant feus or long leases of estates subject to existing entails.

24. Notwithstanding any prohibitory, irritant, and resolute clauses, or any limitation by way of maximum or minimum of the extent of ground to be feued or to be granted in each separate feu, contained in any tailzie dated prior to the first day of August one thousand eight hundred and forty-eight, it shall be lawful for an heir of entail in possession of an entailed estate in Scotland, upon notice to the heir of entail next entitled to succeed to such estate immediately after such heir of entail in possession, with the approbation of the court, to be obtained in the form and manner herein-after provided, to grant feus or long leases of any part of the said entailed estate for the highest feu duty or rent that can be got for the same, such feus or long leases so granted by him not exceeding in all one eighth part in value for the time of such estate; provided always, that it shall not be lawful for such heir to take any grassum or fine or valuable consideration, other than the tack duty or rent, for granting any such feu or lease, nor to grant any such feu or lease of the mansion house, offices, or policies of the estate; and such heir shall be entitled to make, at the sight of the court, all such feu charters or other feu rights, or tacks or leases, as shall be necessary; and in case any such grassum, fine, or consideration shall be taken, and in case any feu or lease hereby prohibited shall be granted, such feu or lease shall be null and void; but nothing herein contained shall prevent or be construed to prevent any heir of entail in possession from exercising any power of granting feus or leases which may be contained in the tailzie under which he possesses, more extensive than the power of granting feu or leases hereby conferred.

Where entailed estate may be charged with debt, estate may be sold for payment thereof.

25. In all cases in which it is made competent by this Act for any heir of entail in possession of an entailed estate in Scotland to charge the same with debt, by granting bonds and dispositions in security therefor over such estate, freed from all the clauses prohibitory, irritant, and resolute contained in the tailzie in virtue whereof such estate is holden, and also in all cases in which such charge is made competent by any Act of Parliament, but no power of sale granted to the heir of entail, and in all cases in which the fee of an entailed estate is validly charged with debt, it shall be lawful for the heir of entail in possession for the time being to sell and dispose of any portion or portions of such estate, other than the mansion house, offices,

and policies thereof, which may be necessary, and which the Court of Session may select as most suitable and proper to be sold and disposed of, for the purpose of paying off the debt in respect of which such charge has been or might be competently made; and it shall be lawful for such heir of entail in possession to grant, at the sight and under authority of the court, valid and effectual dispositions in fee simple in ordinary form of such portion or portions of the said estate to the purchaser thereof, and his heirs or assignees; and the price to be obtained for the portion or portions of the estate to be so sold shall be previously approved of by the court, and shall be paid into court, under the application for sale by the purchaser, who shall by such payment be fully discharged of such price, and have no interest, concern, or responsibility as to the application thereof; and such price shall be applied, at the sight of the court, in or towards payment or extinction of the said debt; and the surplus of such price remaining after payment of the said debt, and of the expences attending the application for sale and procedure thereon, shall, if more than two hundred pounds, be invested in other lands or heritages, to be added to the remainder of such entailed estate, or be laid out and expended in or towards payment of entailor's debts, or in or towards payment of any money charged on the fee of such entailed estate under this or any other Act, or in redemption of the land tax affecting such entailed estate, or in permanently improving the same, or in repayment of money already expended in such improvements, as may be deemed most advisable; and if such surplus shall be invested in other lands or heritages, to be added to the remainder of such entailed estate, the tailzie of such other lands or heritages shall, whatever be its actual date, be taken to be of equal date with the tailzie of the remainder of such entailed estate; and if such surplus be less than two hundred pounds, the same shall be paid to the heir of entail in possession of such entailed estate for the time, for his own use and behoof, all at the sight and under the direction of the Court of Session.

Price to be paid into court, and applied in extinction of debt.

Application of surplus.

26. In all cases where money has been derived or may hereafter be derived from the sale or disposal of any portion of an entailed estate in Scotland, or of any right or interest in or concerning the same, or in respect of any permanent damage done to such estate, under any private or other Act of Parliament, or where any money has been invested in trust for the purpose of purchasing lands to be settled upon the series of heirs entitled to succeed to such entailed estate, and where such money would fall to be invested in lands or heritages to be entailed on the same series of heirs as are called to the succession of such entailed estate by the tailzie thereof, and under the same prohibitions, conditions, restrictions, and limitations as are contained in such tailzie, and where the heir in possession of such entailed estate could by virtue of this Act acquire to himself such estate in fee simple by executing and recording an

Money arising from sale of estate, and trust money, liable to be laid out in estates to be settled with entailed estate, may be paid to the heir of entail, if he could under this Act disentail the estate;

or may otherwise be applied in payment of entailor's debts, redemption of land tax, improvements, &c.

instrument of disentail as aforesaid, it shall be lawful for such heir to make summary application to the court, in manner herein-after provided, for warrant and authority, and the court upon such application shall have power to grant warrant and authority to and in favour of such heir of entail, for payment to such heir of such sums of money, as belonging to himself in fee simple; but if such heir of entail shall not be entitled to acquire such estate in fee simple, then it shall be lawful for such heir, with the approbation of the court, to lay out such money or any portion thereof in or towards payment of entailor's debts, or in or towards payment of any money charged on the fee of such entailed estate under this or any other Act, or in redemption of the land tax affecting such entailed estate, or in permanently improving the same, or in repayment of money already expended in such improvements; and in such case such heir shall apply summarily to the court in manner herein-after provided, setting forth the amount of the sums proposed to be laid out, and the special purpose to which it is intended to apply the same; and if the court shall be satisfied of the propriety of the proposed application they shall issue a finding or decree to that effect, and authorizing such application; and it shall thereafter be lawful for the heir so applying to lay out such money or any part thereof, according as the court shall have authorized the application of the same, to all or any of the before mentioned purposes; and if there shall be any surplus of such money after the purposes authorized by the decree of the court shall be fulfilled, the same shall, if more than two hundred pounds, be applied as the whole money would have been applied but for the provisions of this Act, and if less than two hundred pounds shall be paid to the heir of entail in possession of such entailed estate for the time, for his own use and behoof.

Money vested in trust for the purchase of land to be entailed, or land directed to be entailed, may be paid or conveyed to heir of entail, if he could under this Act disentail the estate.

27. Where any money or other property, real or personal, has been or shall be invested in trust for the purpose of purchasing land to be entailed, or where any land is or shall be directed to be entailed, but the direction has not been carried into effect, it shall be lawful for the party who, if the land had been entailed in terms of the trust, would be the heir in possession of the entailed land, and who in that case might be, virtue of this Act have acquired to himself such land in fee simple by executing and recording an instrument of disentail as aforesaid, to make summary application to the court, as herein after provided, for warrant and authority for the payment to him of such money, or for the conveyance to him of such land in fee simple; and the court shall, upon such application, and with such consents, if any, as would have been required to the acquisition of such land in fee simple, have power to grant such warrant and authority.

Date of Act of Parliament, &c. directing entail deemed to be the date of entail.

28. For the purposes of this Act the date at which the Act of Parliament, deed, or writing placing such money or other property under trust, or directing such land to be entailed, first came into operation shall be held to be the date at which the land should

have been entailed in terms of the trust, and shall also be held to be the date of any entail to be made hereafter in execution of the trust, whatever be the actual date of such entail.

29. Where any money or other property, real or personal, has . . . been invested in trust for the purpose of purchasing land to be entailed, or where any land has . . . been directed to be entailed, but the direction has not been carried into effect, it shall be lawful for the party who, if the land had been entailed in terms of the trust, would be the heir in possession of the entailed land for the time to grant provisions in favour of his or her husband or wife and younger children out of such money or other property, or out of such land, as the case may be, of such and the like amount and extent as he or she would have been entitled to grant out of the land if entailed, and if subject to the provisions and enactments of the Entail Provisions Act, 1824.

Provisions to wives and children may be granted out of money vested in trust for the purchase of lands to be entailed, as they might be granted out of the land if entailed.

5 Geo. 4. c. 87.

30. No creditor acting under powers of sale contained in any bond or disposition in security or other deed of security affecting any entailed estate in Scotland, by virtue of this or any other Act, shall be entitled to sell such entailed estate, or any portion or portions thereof, in manifest excess of what is necessary or proper in order to payment and extinction of the debt, principal and interest, and whole expences appertaining thereto, for which such sale is made; and any judgment of the Court of Session pronounced in any suspension of any such intended sale on the ground of manifest excess shall be final, and not subject to appeal; and wherever upon a sale of such entailed estate or of any portion or portions thereof by such creditor acting under such powers as aforesaid there shall arise a surplus of the price after payment of such debt, principal and interest, and whole expences effeiring thereto, such creditor shall only be entitled to payment from the purchaser of the amount of such debt, principal and interest, and whole expences effeiring thereto; and such creditor and purchaser shall be bound forthwith to present or cause to be presented an application to the court, setting forth such surplus, and praying for the reinvestment thereof in other lands or heritages, to be entailed, at the sight of the court, on the same series of heirs, and, as far as may be, in the same terms, and subject to the same prohibitions, conditions, restrictions, limitations, and clauses irritant and resolute, as are contained in the tailzie under which the estate or the portion or portions thereof so sold was or were holden previous to such sale, or for the disposal of such surplus in such other manner as the court may direct, consistently with the provisions of this Act; and on such application being presented the court shall ordain the petitioner, or other party in whose hands the admitted surplus may be, to pay the same into bank, and to produce a receipt therefor taken, payable as the court may direct, and shall also appoint such intimation and advertisement of the application as they may deem proper; and it shall be competent to the court

Creditor acting under power of sale in bond, &c. affecting entailed estate not to sell land in excess of what is necessary to pay the debt affecting the estate.

If a surplus arises on a sale, creditor and purchaser shall apply to court for investment thereof in lands to be entailed as the lands sold.

Proceedings on such application.

under such application to ascertain and determine the just amount of such surplus, and to give decree for the same, and to exonerate and discharge the creditor and purchaser and all others thereof, and also, if such surplus shall exceed two hundred pounds, to see to the reinvestment thereof in other lands or heritages, and to the entailing of such lands or heritages as aforesaid, or to the disposal of such surplus in such other way and manner as may be consistent with the provisions of this Act, and as may appear to the court to be suitable and proper; and if such surplus shall be reinvested in other lands or heritages as aforesaid, the tailzie of such other lands or heritages shall, whatever be its actual date, be taken to be of equal date with the tailzie of the remainder of such entailed estate; and if such surplus shall not exceed two hundred pounds the court shall order the same to be paid over to the heir of entail in possession, for his own use and behoof.

Guardians may be appointed to act for heirs of entail who are minors, or under incapacity.

Guardians may act and consent for such minors, &c.

31. Unless where inconsistent with any other provisions of this Act, it shall be competent for the Court of Session, where any heir of entail whose consent is required under this Act shall be under age or subject to any legal incapacity, to appoint, in the course of any application to which such consent is required, a separate tutor ad litem, or curator ad litem, or curator bonis, or other guardian, to each such party; and such tutor ad litem, or curator ad litem, or curator bonis, or other guardian, being so appointed by the court, shall be charged with the interest of such party in reference to such application, and shall be entitled, with or without consideration, to act and to give consent on the behalf of such party; and no tutor or curator or other legal guardian who may give any consent under this Act on behalf of any heir substitute shall incur any responsibility on account of such consent in respect of any alleged error in judgment, or inadequacy of consideration, or want of consideration therefor, unless it shall also be alleged and proved that he acted corruptly in the matter; and such consent by such tutor or curator or other legal guardian shall be in all respects as effectual as if the same had been given by such heir himself when of full age and of legal capacity to act in his own affairs: Provided always, that no heir of entail in possession of an entailed estate in Scotland, or whose own consent shall be required in the application, shall be entitled to give consent on the behalf of any other party in reference to any application for disentail of such estate.

Form and registration of instrument of disentail, and effect thereof.

32. An instrument of disentail under this Act may be in the form or as nearly as may be in the form set forth in the schedule to this Act annexed; and it shall be the duty of the keeper of the register of tailzies for the time being to record such instrument, when duly presented under authority of the court for that purpose, in the register of tailzies, along with the decree of court on which it proceeds, upon payment of such fee for the same as may be fixed by the court by act of sederunt; and such instrument, when duly executed, and recorded in the

register of tailzies, under authority of the court, in terms of this Act, shall have the effect of absolutely freeing, relieving, and disencumbering the entailed estate to which such instrument applies, and the heir of entail in possession of the same, and his successors, of all the prohibitions, conditions, restrictions, limitations, and clauses irritant and resolute, of the tailzie under which such estate is held, and of entitling such heir in possession to alter the course of succession prescribed by such tailzie, and to alienate and dispoise such estate, onerously or gratuitously, and to burden the same with debt, and to do any other act or deed in relation thereto competent by law to any absolute proprietor in fee simple: Provided always, that such instrument of disentail shall in no way defeat or affect injuriously any charges, burdens, or incumbrances, or rights or interests, of whatsoever kind or description, held by third parties, and lawfully affecting the fee or rents of such estate, or such heir in possession or his successors, other than the rights and interests of the heirs substitute of entail in or through the tailzie under which such estate is held, but that all such charges, burdens, and incumbrances, and rights and interests, other than as aforesaid, shall remain at least as valid and operative in all respects as if no such instrument of disentail had been executed or recorded.

Certain charges, &c. not to be defeated or affected.

33. It shall be lawful for any heir of entail in possession of an entailed estate in Scotland, desiring to take advantage of any of the provisions of this Act as to which the authority of the court is by this Act required, to make application to that effect by way of summary petition to the court; and such petition shall set forth the tailzie under which such estate is held, and the date of the petitioner's infeftment therein, if any be, and the names, designations, and places of abode, so far as known to the petitioner, of the heirs substitute of entail (if any) whose consents are required to such petition, and whether such heirs substitute are of age to consent on their own behalf, and if not, then the names, designations, and places of abode of their fathers, or tutors or curators or other legal guardians, and if such heirs substitute or any of them are the children of such heir of entail in possession himself, and are minors, or legally incapacitated to act in their own affairs, the same shall be stated in such petition, and such petition shall also set forth specifically to what extent and in what way and manner such estate is proposed to be affected.

Applications to the court by petition.

S. 34 (as to intimation and advertisement of petitions) rep. 55 & 56 Vict. c. 19. (S.L.R.)

35. After intimation and advertisement^[1] as aforesaid in terms of such deliverance of the court it shall be competent to such petitioner to move the court to grant the prayer of such petition; and if the procedure shall appear to the court to be regular and proper, the court shall interpose their authority, and

Procedure in court.

[¹ As to mode of advertisement see 31 & 32 Vict. c. 84. s. 7.]

give decree authorizing such petitioner to do and perform the act or acts proposed in such petition, in so far as the same may appear to the court to be permitted by this Act, or the court shall do otherwise in reference to such petition as may appear to them to be proper, and consistent with this Act

Which heirs shall be called or entitled to appear in proceedings under this Act.

36. It shall not be necessary in any proceedings under this Act to call as parties thereto any heirs of entail other than those whose consent would be required by the heir in possession for the time to an instrument of disentail; and no heir of entail other than those whose consent would be required as aforesaid shall be entitled to appear or to be heard in such proceedings.

Excambions under 6 & 7 Will. 4. c. 42. may be carried through under the forms of this Act.

37. [*Recital of 6 & 7 Will. 4. c. 42.*] It shall not be necessary for any heir of entail in possession intending to effect any excambion under or by virtue of the said recited Act to adopt any of the procedure thereby required, but it shall be competent to such heir of entail to present an application to the court by way of summary petition in the form and manner provided by this Act, and the court shall entertain, proceed with, and dispose of the same in every respect as if the powers to effect excambions conferred by the said recited Act had been contained in and conferred by this Act; and further, it shall not be necessary to record any contract of excambion which shall be executed at the sight and with the approbation of the court, as required by the said recited Act, in any other register than the register of tailzies.

Instruments of disentail recorded, not to be reducible for irregularity, &c. except in certain cases.

38. Any instrument of disentail recorded in the register of tailzies under the authority of the court, where the judgment of the court allowing such instrument of disentail has not been brought under review of the House of Lords by appeal, or where such judgment has not been brought under reduction upon any relevant ground during the period within which such judgment might have been appealed from, shall, as regards any third parties acting bonâ fide on the faith thereon, be no longer reducible on any ground of irregularity or noncompliance with the provisions of this Act, but in respect of any such ground of challenge be final and conclusive.

In future entails, irritant and resolute clauses to be implied in clause authorizing registration, so as to render entail effectual under Scots Act of 1685.

39. In any tailzie dated on or after the first day of August one thousand eight hundred and forty-eight, containing an express clause authorizing registration in the register of tailzies, it shall not be necessary to insert any irritant or resolute clauses in order to render such tailzies effectual in terms of the Entail Act, 1685, but such clause of registration shall have in every respect the same operation and effect as the most formal irritant and resolute clauses duly applied to every prohibition, condition, restriction, and limitation contained in such tailzie, except only such prohibitions, conditions, restrictions, and limitations as by the terms of such tailzie may be specially excepted; and such clause authorizing registration in the register of tailzies shall be engrossed as part of such tailzie in the register of tailzies when

Such clause to be engrossed in register of tailzies, and

such tailzie is recorded therein, and shall also be inserted or duly referred to in all procuratories of resignation, charters, decrees of special service, precepts, and instruments of seisin following on such tailzie, in the same manner, or as nearly as may be in the same manner, as irritant and resolute clauses are now required to be so inserted or referred to.

referred to in subsequent procuratories of resignation, &c.

40. No irritancy committed or that may be committed by any heir of entail in possession of an entailed estate in Scotland shall operate to set aside, impair, or in any way affect, directly or indirectly, in the person of any purchasers or *bonâ fide* onerous creditors, any conveyances, deeds, or securities granted in reference to such estate, or the rents thereof, prior to the execution of the summons of declarator on which decree in respect of such irritancy shall proceed, and not invalid as being inconsistent with the provisions of the entail under which such estate is held.

Irritancy committed by heir of entail in possession not to affect conveyances or securities prior to execution of summons of declarator on which decree in respect of such irritancy shall proceed.

39 & 40 Geo. 3. c. 98.

41. And whereas an Act was passed in the thirty-ninth and fortieth years of the reign of his Majesty King George the Third, intituled "An Act to restrain all trusts and directions in deeds" or wills whereby the profits or produce of real or personal estate shall be accumulated, and the beneficial enjoyment thereof postponed beyond the time therein limited. . . . Be it enacted, that the said Act shall in future apply to heritable property in Scotland.

Recited Act applied to heritable property in Scotland.

42. All the acts hereby permitted to be done by an heir in possession of an entailed estate, in virtue of the deed of entail under which such estate is held, may be done by such heir, whether such deed of entail be recorded in the register of tailzies or not, or whether such heir be duly infeft in such estate or not.

Proceedings may be taken under this Act, though entail be not recorded or heir infeft.

43. Where any tailzie shall not be valid and effectual in terms of the Entail Act, 1685, in regard to the prohibitions against alienation and contraction of debt, and alteration of the order of succession, in consequence of defects either of the original deed of entail or of the investiture following thereon, but shall be invalid and ineffectual as regards any one of such prohibitions, then and in that case such tailzie shall be deemed and taken from and after the passing of this Act to be invalid and ineffectual as regards all the prohibitions; and the estate shall be subject to the deeds and debts of the heir then in possession, and of his successors, as they shall thereafter in order take under such tailzie; and no action of forfeiture shall be competent at the instance of any heir substitute in such tailzie against the heir in possession under the same by reason of any contravention of all or any of the prohibitions; and where any money or other property, real or personal, has been or shall be invested in trust for the purpose of purchasing lands to be entailed, or where any lands are or shall be directed to be entailed, but the direction has not been carried into effect, such

Entail defective under Act of 1685 in any one prohibition to be bad as to all;

and estate to be subject to deeds and debts of heir in possession and his successors, without liability to forfeiture for contravention of prohibitions.

Money, &c., directed to be laid out in land

to be entailed
may be dealt
with like land.

trust money or other property, and such lands, though still unentailed, may be dealt with under this Act in all respects as such lands might have been dealt with if entailed in terms of such trust or directions.

Instruments of
disentail, and
decrees under
this Act, to
be registered in
the registers of
sasines.

44. It shall be lawful for and incumbent upon the . . . keepers of the general register of sasines at Edinburgh to record any instrument of disentail, and any decree of the court pronounced under this Act, when presented to them for that purpose, on payment of such fees for the registration thereof as may be fixed by the court by act of sederunt.

No irritancy or
forfeiture to be
incurred for
any thing done
under this Act.

45. No heir of entail or other person shall, by taking advantage of the provisions of this Act, or by acting under the same, incur any irritancy or forfeiture under any tailzie, any thing in such tailzie to the contrary notwithstanding; and no disposition, or bond and disposition in security, or bond of annual rent, or other deed, instrument, or writing, granted under authority of this Act, shall be held as any contravention of or be in any way affected by any prohibitions, conditions, restrictions, limitations, or clauses prohibitory, irritant, and resolute continued in any tailzie.

[S. 46 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Where under
any future trust
disposition land
is in the posses-
sion of any
person of full
age born after
the date of such
disposition,
such person
shall not be
affected by
prohibitions,
&c. contained
in such disposi-
tion limiting
his interest;

47. Where any land or estate in Scotland shall, by virtue of any trust disposition or settlement or other deed of trust whatsoever, dated on or after the first day of August one thousand eight hundred and forty-eight, be in the lawful possession, either directly or through any trustees for his behoof, of a party of full age born after the date of such trust disposition or settlement or other deed of trust, such party shall not be in any way affected by any prohibitions, conditions, restrictions, or limitations which may be contained in such trust disposition or settlement or other deed of trust, or by which the same or the interest of such party therein may bear to be qualified, such prohibitions, conditions, restrictions, or limitations being of the nature of prohibitions, conditions, restrictions, or limitations of entail, or intended to regulate the succession of such party, or to limit, restrict, or abridge his possession or enjoyment of such land or estate in favour of any future heir; and such party shall be deemed and taken to be the fee simple proprietor of such land or estate, and it shall be lawful to such party to make application by way of summary petition to the Court of Session, setting forth the facts, and referring to this Act, and craving the court to pronounce an act and decree declaring him fee simple proprietor of such land or estate, and unaffected by any such conditions, provisions, restrictions, or limitations; and the court shall proceed in such petition as may be just, and shall have power to pronounce an act and decree declaring such party to be fee simple proprietor of such land or estate, and unaffected as aforesaid; and such act and decree may be recorded in the register of sasines, and being so recorded shall have all the operation and

but he shall be
deemed to be
the fee simple
proprietor, and
may petition
for a decree
declaring him
to be such
proprietor.

Such decree to
be recorded.

effect of the most formal and valid disposition to such party, and his heirs and assignees whomsoever, of such lands or estate, with infestment thereon in favour of such party duly recorded : Provided always, that the rights of the superior of such lands or estate, and of all parties holding securities thereon, and all rights which are held independently of such trust disposition or settlement or other deed of trust, shall be as they are hereby reserved entire.

Rights of superior, and parties holding security, not to be affected.

48. It shall be competent to grant an estate in Scotland limited to a liferent interest in favour only of a party in life at the date of such grant ; and where any land or estate in Scotland shall, by virtue of any deed dated on or after the said first day of August one thousand eight hundred and forty-eight, be held in liferent by a party of full age born after the date of such deed, such party shall not be in any way affected by any prohibitions, conditions, restrictions, or limitations which may be contained in such deed, or by which the same or the interest of such party therein may bear to be qualified ; and such party shall be deemed and taken to be the fee simple proprietor of such estate, and it shall be lawful to such party to obtain and record an act and decree of the Court of Session, in the like form and manner, and in the like terms, and with the like operation and effect, as is herein-before provided with reference to an act and decree of the said court in the case of deeds of trust : Provided always, that the rights of the superior of such lands or estate, and of all parties holding securities thereon, and all rights which shall be held independently of the deed by which such liferent is constituted, shall be as they are hereby reserved entire.

Liferent interests may hereafter be granted only in favour of persons in existence at date of grant ; and persons holding estates in liferent, and born after date of grant, shall be deemed to be fee simple proprietors, and may apply to the court for decrees accordingly.

Rights of superiors and parties holding security not to be affected.

49. Where any land or estate in Scotland shall, by virtue of any tack, assignation of tack, or other deed or writing, dated on or after the said first day of August one thousand eight hundred and forty-eight, be held in lease, either directly or through trustees for his behoof, by a party of full age born after the date of such tack, assignation of tack, or other deed or writing, such party shall not be in any way affected by any prohibitions, conditions, restrictions, or limitations which may be contained in such tack, assignation of tack, or other deed or writing, or by which the same or the interest of such party therein may be qualified, such prohibitions, conditions, restrictions, or limitations being of the nature of prohibitions, conditions, restrictions, or limitations of entail, or intended to regulate the succession of such party, or to limit, restrict, or abridge his possession or enjoyment of such land or estate in favour of any future heir : Provided always, that it shall be lawful to the proprietor of whom such lease is held to enforce any prohibitions, conditions, restrictions, or limitations contained in such tack, assignation of tack, or other deed or writing, which shall have been inserted therein for the bonâ fide purpose of protecting the just rights and interests of such proprietor, in so far as such enforcement may be necessary in order to such protection.

Where under any future tack, &c. land is held in lease by a person of full age born after date of such tack, &c. such person shall not be affected by prohibitions, &c. in such tack, &c. limiting his interest.

Saving for prohibitions, &c. in favour of proprietor of whom such lease is held.

Consents to be
in writing, and
to be irrevocable.

50. All consents of heirs of entail, or of their tutors or curators or other legal guardians, under this Act, shall be in the form of writings duly tested according to the law of Scotland, and otherwise in such form as may be fixed by the Court of Session by act of sederunt; and no consent duly given in the manner provided by this Act shall be revocable by the granter thereof.

Acts of
sederunt.

51. It shall be lawful to the court to pass such act or acts of sederunt as the court may deem proper for the further regulation of the forms of procedure under this Act, and otherwise for rendering this Act more effectual, according to the true intent and meaning hereof.

Interpretation.

52. In construing this Act, except where the nature of the provision shall be repugnant to such construction, the words "Court of Session" or "the court" shall be construed to mean either division of the Court of Session; and the words "heir" and "heir of entail" shall include the institute; and the words "heir apparent" shall be construed to mean the heir who is next in succession to the heir in possession, and whose right of succession, if he survive, must take effect; the words "land" and "lands" shall extend to and comprehend all heritages; the words "entailed estate" shall extend to and comprehend all heritages which by the law of Scotland may be made the subject of entail; the words "creditor" and "creditors" shall extend to and comprehend the heirs and assignees of such creditor or creditors; and all words used in the singular number shall be held to include several persons or things; and words in the plural shall be held to include the singular number; and all words importing the masculine gender shall extend and be applied to females as well as males.

[S. 53 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

SCHEDULE to which the foregoing Act refers. Sect. 32.

Form of Instrument of Disentail.

At [state place], the [state date], in presence of [name notary public], notary public, and of the witnesses subscribing, I [name and designation of heir in possession], heir of entail in possession of the lands and others after mentioned, viz. [take in full description from titles], which lands and others are held by me under a deed of entail dated [state date of entail], and recorded [state particulars of registration], take instruments in the hands of the said notary public subscribing that the said lands and others are now held by me free from the conditions, provisions, and clauses prohibitory, irritant, and resolute, of the entail, by virtue of the Act [specify this Act]; and I consent to the registration hereof in the register of tailzies, and also in the books of council and session and others competent, therein to remain for preservation, and thereto constitute my
procurators, &c.

In witness whereof I and the said notary public have subscribed this instrument of disentail [complete the testing clause in ordinary form].

[Signature of heir of entail in possession.]
[Signature of notary public.] N.P.

A.B., Witness.

C.D., Witness.

CHAPTER XXXVII.

AN ACT to amend the Law relative to the Assignment of Ecclesiastical Districts.^[1] [14th August 1848.]

[Preamble recites 58 Geo. 3. c. 45; 59 Geo. 3. c. 134; 1 & 2 Will. 4. c. 38; 8 & 9 Vict. c. 70.]

[1.] For the purposes of forming a district parish, a district chapelry, or consolidated chapelry, under the Church Building Act, 1818, the Church Building Act, 1819, the Church Building Act, 1845, or any or either of them, or for the purpose of forming another particular district under the Church Building Act, 1831, a particular district before formed under the Act herein-before last mentioned shall be considered to be an original parish for such ecclesiastical divisions respectively; and the patron and incumbent for the time being of such particular district shall be entitled to the same rights, privileges, and notices as appertain to the incumbent and patron of an original parish touching such ecclesiastical divisions respectively; and such district parish, district chapelry, consolidated chapelry, and particular district, so formed as aforesaid, shall be formed by the like authority, and shall be under and be subject to the same provisions and regulations, as are provided and specified touching such ecclesiastical divisions respectively in the several Acts recited in the preamble to the Church Building Act, 1845, except so far as such provisions and regulations are altered or affected by this Act.

A district formed under 1 & 2 Will. 4. c. 38. shall be considered to be an original parish for the purposes of further ecclesiastical divisions.
58 Geo. 3. c. 45.
59 Geo. 3. c. 134.
8 & 9 Vict. c. 70.
1 & 2 Will 4 c. 38.

2. [Recital of 1 & 2 Will. 4., c. 38.] Where a particular district has been or may hereafter be assigned under such last-mentioned Act to any church or chapel already or to be hereafter built or purchased and endowed, and the patronage thereof granted, under the provisions of such last-mentioned Act, it shall be lawful at any time for her Majesty's Commissioners for Building New Churches, if they shall think fit, with the consent of the bishop of the diocese under his hand and seal, in any case in which the said commissioners shall have assigned such particular district, or for the said bishop of the diocese in any case in which he shall have assigned such particular district, if he shall think fit, to alter the boundaries of such particular district, by an order under their common seal, or under the hand and seal of the said bishop; and the said commissioners or the said bishop respectively, as the case may be, shall cause a description of the

Boundaries of a district formed under 1 & 2 Will. 4, c. 38, may be altered, subject to certain notices to patron and incumbent.

[¹ Short title, "The Church Building Act, 1848." See 55 & 56 Vict. c. 10.]

boundaries so altered to be registered in the registry of the diocese, and such alteration of boundaries shall be valid in law, for the purpose of substituting such altered boundaries in lieu of the former boundaries of such particular district as aforesaid: Provided always, nevertheless, that, previous to such alteration of boundaries being made, either by the said commissioners or by the bishop of the diocese, as the case may be, a draft or copy of the instrument by which such alteration is proposed to be effected shall be delivered or transmitted to the incumbent or incumbents and patron or patrons of the original parish or parishes out of which such particular district shall have been taken, in order that such incumbent or incumbents, patron or patrons, may have an opportunity of submitting to the said commissioners or the said bishop, as the case may be, any observations or objections upon or to the alteration of boundaries proposed; and the said commissioners or the said bishop, as the case may be, shall not effect such alteration of boundaries until after the expiration of one calendar month after such draft or copy shall have been so delivered or transmitted, unless such incumbent or incumbents and patron or patrons shall in the meantime consent to the same: Provided further, that if the consent of the incumbent or incumbents of such original parish or parishes is not obtained to such alteration of boundaries, such alteration of boundaries shall not take effect until after the next avoidance of the parish church or churches of such original parish or parishes.

Commissioners may, with certain consents, annex any portion of an adjacent parish to a district chapelry formed under 59 Geo. 3. c. 134.

3. It shall be lawful for her Majesty's said commissioners, if they shall think fit, with the consent of the bishop of the diocese, to represent to her Majesty in council the expediency of altering the boundaries of any district chapelry formed under the provisions of the Church Building Act, 1819, by adding to such district chapelry any portion or portions of any adjacent parish or parishes, and if thereupon her Majesty in council shall think fit to order such alteration, such order shall be good and valid for the purpose of effecting the same: Provided always, that such alteration shall not be made without the consent in writing, under their respective hands and seals, of the patron and incumbent of such district chapelry and of the patron and incumbent of any such parish, and that such district chapelry, when its boundaries shall have been so altered, shall be subject nevertheless to the same rules, regulations, and provisions, except as are herein excepted, as are applicable to other district chapelries formed under the Church Building Acts.

Removal of doubts as to extent and meaning of 8 & 9 Vict. c. 70. s. 23.

4. [*Recital of 8 & 9 Vict. c. 70. s. 23, as to agreements between the bishop of the diocese and the patron and incumbent.*] Any agreement already made or hereafter to be made between such bishop, patron, and incumbent, under the provisions of the herein-before recited Act, purporting to be an agreement made between such parties with respect to any new church, before or during its building, or previous to its consecration, that the

right of presentation thereto should on its consecration be vested either in perpetuity or otherwise in any body corporate, aggregate or sole, or any person or persons, their heirs or assigns, shall be valid and effectual for the purpose of vesting such patronage according to such agreement.

5. This Act shall extend only to that part of the United Kingdom called England and Wales, and to the Isle of Man, and to the Islands of Guernsey, Jersey, Alderney, and Sark. Extent of Act.

CHAPTER XLII.

AN ACT to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Persons charged with indictable Offences.^[1]
[14th August 1848.]

[Preamble.]

[1.] In all cases where a charge or complaint (A.) shall be made before any one or more of her Majesty's justices of the peace for any county, riding, division, liberty, city, borough, or place, within England or Wales, that any person has committed or is suspected to have committed any treason, felony, or indictable misdemeanor, or other indictable offence whatsoever, within the limits of the jurisdiction of such justice or justices of the peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such justice or justices is residing or being or is suspected to reside or be within the limits of the jurisdiction of such justice or justices, then and in every such case, if the person so charged or complained against shall not then be in custody, it shall be lawful for such justice or justices of the peace to issue his or their warrant (B.) to apprehend such person, and to cause him to be brought before such justice or justices, or any other justice or justices for the same county, riding, division, liberty, city, borough, or place, to answer to such charge or complaint, and to be further dealt with according to law: Provided always, that in all cases it shall be lawful for such justice or justices to whom such charge or complaint shall be preferred, if he or they shall so think fit, instead of issuing in the first instance his or their warrant to apprehend the person so charged or complained against, to issue his or their summons (C.) directed to such person, requiring him to appear before the said justice or justices at a time and place to be therein mentioned, or before such other justice or justices of the same county, riding, division, liberty, city, borough, or place as may then be there; and if after being served with such summons in manner herein-after mentioned he shall fail to appear at

Grant of
warrant or
summons
against per-
sons charged
with offences.

^[1] Short title, "The Indictable Offences Act, 1848." See 55 & 56 Vict. c. 10.]

such time and place in obedience to such summons, then and in every such case the said justice or justices, or any other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, may issue his or their warrant (D.) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer to the said charge or complaint, and to be further dealt with according to law: Provided nevertheless, that nothing herein contained shall prevent any justice or justices of the peace from issuing the warrant herein-before first mentioned at any time before or after the time mentioned in such summons for the appearance of the said accused party.

Warrant to apprehend for offences committed on the high seas or abroad.

2. In all cases of indictable crimes or offences of any kind or nature whatsoever committed on the high seas, or in any creek, harbour, haven, or other place, in which the Admiralty of England have or claim to have jurisdiction, and in all cases of crimes or offences committed on land beyond the seas for which an indictment may legally be preferred in any place within England or Wales, it shall be lawful for any one or more of her Majesty's justices of the peace for any county, riding, division, liberty, city, borough, or place, within England or Wales, in which any person charged with having committed or with being suspected to have committed any such crime or offence shall reside or be, or shall be supposed or suspected to reside or be, to issue his or their warrant (E.) to apprehend, the person so charged, and to cause him to be brought before him or them, or some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer to the said charges, and to be further dealt with according to law.

Warrant to apprehend a party against whom an indictment is found.

3. Where any indictment shall be found by the grand jury in any court of oyer and terminer or general gaol delivery, or in any court of general or quarter sessions of the peace, against any person who shall then be at large, and whether such person shall have been bound by any recognizance to appear to answer to the same or not, the person who shall act as clerk of the indictments at such court of oyer and terminer or gaol delivery, or as clerk of the peace at such sessions, at which the said indictment shall be found, shall, at any time afterwards, after the end of the sessions of oyer and terminer or gaol delivery or sessions of the peace at which such indictment shall have been found, upon application of the prosecutor, or of any person on his behalf, and on payment of a fee of one shilling, if such person shall not have already appeared and pleaded to such indictment, grant unto such prosecutor or person a certificate (F.) of such indictment having been found; and upon production of such certificate to any justice or justices of the peace for any county,

riding, division, liberty, city, borough, or place, in which the offence shall in such indictment be alleged to have been committed, or in which the person indicted in and by such indictment shall reside or be, or be supposed or suspected to reside or be, it shall be lawful for such justice or justices, and he and they are hereby required, to issue his or their warrant (G.) to apprehend such person so indicted, and to cause him to be brought before such justice or justices, or any other justice or justices for the same county, riding, division, liberty, city, borough, or place, to be dealt with according to law; and afterwards, if such person be thereupon apprehended and brought before any such justice or justices, such justice or justices, upon its being proved upon oath or affirmation before him or them that the person so apprehended is the same person who is charged and named in such indictment, shall, without further inquiry or examination, commit (H.) him for trial, or admit him to bail, in manner herein-after mentioned; or if such person so indicted shall be confined in any gaol or prison for any other offence than that charged in the said indictment, at the time of such application, and production of the said certificate to such justice or justices as aforesaid, it shall be lawful for such justice or justices, and he and they are hereby required, upon it being proved before him or them upon oath or affirmation that the person so indicted and the person so confined in prison are one and the same person, to issue his or their warrant (I.), directed to the gaoler or keeper of the gaol or prison in which the person so indicted shall then be confined as aforesaid, commanding him to detain such person in his custody until by her Majesty's writ of habeas corpus he shall be removed therefrom, for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of his custody by due course of law.

Person apprehended to be committed for trial or admitted to bail.

Provision where person indicted is already in prison for some other offence.

4. It shall be lawful for any justice or justices of the peace to grant or issue warrant as aforesaid, on any search warrant, on a Sunday as well as on any other day.

Issue of warrants on Sundays.

5. In cases where a justice of the peace for any county, riding, division, liberty, city, borough, or place shall be also justice of the peace for a county, riding, division, liberty, city, borough, or place next adjoining thereto or surrounded thereby, it shall and may be lawful for such justice of the peace to act as such justice for the one county, riding, division, liberty, city, borough, or other place, whilst he is residing or happens to be in the other such county, riding, division, liberty, city, borough or other place, in all matters and things herein-before or hereafter in this Act mentioned; and all such acts of such justice, and the acts of any constable or other officer in obedience thereto, shall be as valid, good, and effectual in the law, to all intents and purposes, as if such justice at the time he shall so act as aforesaid were in the county, riding, division, liberty, city, borough, or other place, for which he shall so act; and all constables

Provision where justices act for two adjoining counties, &c.

and other officers for the county, riding, division, liberty, city, borough, or place for which such justice shall so act as aforesaid are hereby authorized and required to obey the warrants, orders, directions, act or acts of such justice which in that behalf shall be granted, given, or done, and to do and perform their several offices and duties in respect thereof, under the pains and penalties to which any constable or other officer may be liable for a neglect of duty; and any such constable or other peace officer, or any other person, apprehending or taking into custody any person offending against law, and whom he lawfully may and ought to apprehend or take into custody, by virtue of his office or otherwise, in any such county, riding, division, liberty, city, borough, or place, may lawfully take and convey such person so apprehended and taken as aforesaid to and before any such justice of the peace for such county, riding, division, liberty, city, borough, or place, whilst such justice shall be in such adjoining county, riding, division, liberty, city, borough, or place as aforesaid, and the said constables and other peace officers, and all such other persons as aforesaid, are hereby authorized and required in all such cases so to act in all things as if the said justice of the peace were within the said county, riding, division, liberty, city, borough, or place, for which he shall so act.

Justices for a county, &c. may act for it in an adjoining city or place of exclusive jurisdiction.

6. It shall be lawful for any justice or justices of the peace acting for any county at large, or for any riding or division of such county, to act as such at any place within any city, town, or other precinct, being a county of itself, or otherwise having exclusive jurisdiction, and situated within, surrounded by, or adjoining to any such county, riding, or division respectively; and all and every such act and acts, matters and things, to be so done by such justice or justices within such city, town, or precinct, as justice or justices for such county, riding, or division respectively, shall be as valid and effectual in law as if the same had been done within such county, riding, or division respectively, to all intents and purposes whatsoever: Provided always, that nothing in this Act contained shall extend to give power to the justices of the peace for any county, riding, or division, not being also justices for such city, town, or other precinct, or not having authority as justices of the peace therein, or any constable or other officer acting under them, to act or intermeddle in any matters or things arising within any such city, town, or precinct, in any manner whatsoever.

Powers of justices, &c. in detached parts of counties.

7. [*Recital of 2 & 3 Vict. c. 82.*] All the acts of any justice or justices, and of any constable or officer in obedience thereto, shall be as good in relation to any detached part of any county which is surrounded in whole or in part by the county for which such justice or justices acts or act as if the same were to all intents and purposes part of the said county; and all constables and other officers of such detached part are hereby required to obey the warrants, orders, and acts of such justice or justices, and to perform their several duties in respect thereof,

under the pains and penalties to which any constable or other officer may be liable for a neglect of duty.

8. In all cases where a charge or complaint for any indictable offence shall be made before such justice or justices as aforesaid, if it be intended to issue a warrant in the first instance against the party or parties so charged, an information and complaint thereof (A.) in writing, on the oath or affirmation of the informant or of some witness or witnesses in that behalf, shall be laid before such justice or justices: Provided always, that in all cases where it is intended to issue a summons instead of a warrant in the first instance, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid, but in every such case such information and complaint may be by parol merely, and without any oath or affirmation whatsoever to support or substantiate the same: Provided also, that no objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice or justices who shall take the examination of the witnesses in that behalf, as herein-after mentioned.

Form of
information for
issue of war-
rant, and
summons
respectively.

9. Upon such information and complaint being so laid as aforesaid the justice or justices receiving the same may, if he or they shall think fit, issue his or their summons or warrant respectively, as herein-before is directed, to cause the person charged as aforesaid to be and appear before him or them, or any other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to be dealt with according to law; and every such summons (C.) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is so directed to be and appear at a certain time and place therein mentioned before the justice who shall issue such summons, or before such other justice or justices of the peace of the same county, riding, division, liberty, city, borough, or place as may then be there, to answer to the said charge, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer upon the person to whom it is so directed, by delivering the same to the party personally, or if he cannot conveniently be met with then by leaving the same with some person for him at his last or most usual place of abode; and the constable or other peace officer who shall have served the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of such summons; and if the person so served shall not be and appear before the justice or justices at the time and place mentioned in such summons, in obedience to the same, then it shall be lawful for such justice or justices to issue his or

Issue of
warrant and
summons:

Service of
summons.

Validity of
warrant and
summons.

their warrant (D.) for apprehending the party so summoned, and bringing him before such justice or justices, or some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law : Provided always, that no objection shall be taken or allowed to any such summons or warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice or justices who shall take the examinations of the witnesses in that behalf, as herein-after mentioned ; but if any such variance shall appear to such justice or justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such justice or justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or admit him to bail, in manner herein-after mentioned.

Form of
warrant.

10. Every warrant (B.) hereafter to be issued by any justice or justices of the peace to apprehend any person charged with any indictable offence shall be under the hand and seal or hands and seals of the justice or justices issuing the same, and may be directed either to any constable or other person by name, or generally to the constable of the parish or other district within which the same is to be executed, without naming him, or to such constable and all other constables or peace officers in the county or other district within which the justice or justices issuing such warrant has or have jurisdiction, or generally to all the constables or peace officers within such last-mentioned county or district, and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender, and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the justice or justices issuing the said warrant, or before some other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, to answer to the charge contained in the said information, and to be further dealt with according to law ; and it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in force until it shall be executed ; and such warrant may be executed by apprehending the offender at any place within the county, riding, division, liberty, city, borough, or place within which the justice or justices issuing the same shall have jurisdiction, or in case of fresh pursuit at any place in the next adjoining county or place, and within seven miles of the border of such first-mentioned county, riding, division, liberty, city, borough, or place, without having such warrant backed as herein-after mentioned ; and in all cases where such warrant shall be directed to all constables or other peace officers within the county or other district within which the justice or justices issuing the same shall have jurisdiction it shall be lawful for any constable, headborough, tithingman,

Execution of
warrant.

borsholder, or other peace officer for any parish, township, hamlet, or place within such county or district to execute the said warrant within any parish, township, hamlet, or place situate within the jurisdiction for which such justice or justices shall have acted when he or they granted such warrant, in like manner as if such warrant were directed specially to such constable by name, and notwithstanding the place in which such warrant shall be executed shall not be within the parish, township, hamlet, or place for which he shall be such constable, headborough, tithingman, borsholder, or other peace officer: Provided always, that no objection shall be taken or allowed to any such warrant for any defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice or justices who shall take the examinations of the witnesses in that behalf, as herein-after mentioned; but if any such variance shall appear to such justice or justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such justice or justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or to admit him to bail, in manner herein-after mentioned.

Validity of
warrant.

11. If the person against whom any such warrant shall be issued as aforesaid shall not be found within the jurisdiction of the justice or justices by whom the same shall be issued, or if he shall escape, go into, reside, or be, or be supposed or suspected to be, in any place in England or Wales out of the jurisdiction of the justice issuing such warrant, it shall and may be lawful for any justice of the peace for the county or place into which such person shall so escape or go, or in which he shall reside or be, or be supposed or suspected to be, upon proof alone being made on oath of the handwriting of the justice issuing such warrant, to make an indorsement (K.) on such warrant, signed with his name, authorizing the execution of such warrant within the jurisdiction of the justice making such indorsement, and which indorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables and other peace officers of the county or place where such warrant shall be so indorsed, to execute the same in such other county or place, and to carry the person against whom such warrant shall have issued, when apprehended, before the justice and justices of the peace who first issued the said warrant, or before some other justice or justices of the peace in and for the same county, riding, division, city, liberty, borough, or place, or before some justice or justices of the county, riding, division, liberty, city, borough, or place where the offence in the said warrant mentioned appears therein to have been committed: Provided always, that if the prosecutor, or any of the witnesses upon the part of the prosecution, shall then be in the county or place

Backing of
warrants.

where such person shall have been so apprehended, the constable or other person or persons who shall have so apprehended such person may, if so directed by the justice backing such warrant, take and convey him before the justice who shall have so backed the said warrant, or before some other justice or justices of the same county or place; and the said justice or justices may thereupon take the examinations of such prosecutor or witnesses, and proceed in every respect in manner herein-after directed with respect to persons charged before a justice or justices of the peace with an offence alleged to have been committed in another county or place than that in which such persons have been apprehended.

English war-
rants may be
backed in Ire-
land, and vice
versâ.

12. If any person against whom a warrant shall be issued in any county, riding, division, liberty, city, borough, or place in England or Wales, by any justice of the peace, or by any judge of her Majesty's Court of Queen's Bench, or justice of oyer and terminer or gaol delivery, for any indictable offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be, or be supposed or suspected to be, in any county or place in that part of the United Kingdom called Ireland, or if any person against whom a warrant shall be issued in any county or place in Ireland, by any justice of the peace, or by any judge of her Majesty's Court of Queen's Bench there, or any justice of oyer and terminer or gaol delivery, for any crime or offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be, or be supposed or suspected to be, in any county, riding, division, liberty, city, borough, or place in that part of the United Kingdom called England or Wales, it shall and may be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, to indorse (K.) such warrant in manner herein-before mentioned, or to the like effect; and which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace officers of the county or place where such warrant shall be so indorsed, to execute the said warrant in the county or place where the justice so indorsing it shall have jurisdiction, by apprehending the person against whom such warrant shall have been granted, and to convey him before the justice or justices who granted the same, or before some other justice or justices of the peace in and for the same county or place, and which said justice or justices before whom he shall be so brought shall thereupon proceed in such manner as if the said person had been apprehended in the said last-mentioned county or place.

English war-
rants may be
backed in the
Isles of Man

13. If any person against whom a warrant shall be issued in any county, riding, division, liberty, city, borough, or place in England or Wales, by any justice of the peace, or by any judge

of her Majesty's Court of Queen's Bench, or justices of oyer and terminer or gaol delivery, for any indictable offence, shall escape, go into, reside, or be, or be supposed or suspected to be, in any of the Isles of Man, Guernsey, Jersey, Alderney, or Sark, it shall be lawful for any officer within the district into which such accused person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, who shall have jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders within such district, to indorse (K.) such warrant in the manner herein-before mentioned, or to the like effect; or if any person against whom any warrant, or process in the nature of a warrant, shall be issued in any of the isles aforesaid shall escape, go into, reside, or be, or be supposed or suspected to be, in any county, riding, division, liberty, city, borough, or place in England or Wales, it shall be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, to indorse (K.) such warrant or process in manner herein-before mentioned; and every such warrant or process so indorsed shall be a sufficient authority to the person or persons bringing the same, and to all persons to whom the same respectively was originally directed, and also to all constables and peace officers in the county, district, or jurisdiction within which such warrant or process shall be so indorsed, to execute the same within the county, district, or place where the justice or officer indorsing the same has jurisdiction, and to convey such offender, when apprehended, into the county or district wherein the justice or person who issued such warrant or process shall have jurisdiction, and carry him before such justice or person, or before some other justice or person within the same county or district who shall have jurisdiction to commit such offender to prison for trial, and such justice or person may thereupon proceed in such and the same manner as if the said offender had been apprehended within his jurisdiction.

Guernsey, Jersey, Alderney, or Sark, and vice versâ.

14. If any person against whom a warrant shall be issued by any justice of the peace for any county or place within England or Wales or Ireland, or by any judge of her Majesty's Court of Queen's Bench or justice of oyer and terminer or gaol delivery in England or Ireland, for any crime or offence against the laws of those parts respectively of the United Kingdom of Great Britain and Ireland, shall escape, go into, reside, or be, or be supposed or suspected to be, in any place in that part of the said United Kingdom called Scotland, it shall be lawful for the sheriff depute or substitute, or any justice of the peace, of the county or place where such person or persons shall go into, reside, or be, or be supposed or suspected to be, to indorse (K.) the said warrant in manner herein-before mentioned, or to the like effect; which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed,

English or Irish warrants may be backed in Scotland.

and also to all sheriffs officers, constables, and other peace officers of the county or place where such warrant shall be so indorsed, to execute the same within the county or place where it shall have been so indorsed, by apprehending the person against whom such warrant shall have been granted, and to convey him into the county or place in England, Wales, or Ireland where the justice or justices who first issued the said warrant shall have jurisdiction in that behalf, and to carry him before such justice or justices, or before any other justice or justices of the peace of and for the same county or place, to be there dealt with according to law, and which said justice or justices are hereby authorized and required thereupon to proceed in such and the same manner as if the said offender had been apprehended within his or their jurisdiction.

Scottish war-
rants may be
backed in
England or
Ireland.

15. If any person against whom a warrant shall be issued by the Lord Justice General, Lord Chief Justice Clerk, or any of the Lords Commissioners of Justiciary, or by any sheriff depute or substitute, or justice of the peace, of that part of the United Kingdom of Great Britain and Ireland called Scotland, for any crime or offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be, or shall be supposed or suspected to be, in any county or place in England or in Ireland, it shall be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or shall be supposed or suspected to be, to indorse (K.) the said warrant in manner hereinbefore mentioned; and which said warrant so indorsed shall be a sufficient authority to the person or persons bringing the same, and to all persons to whom the same was originally directed, and also to all constables and other peace officers of the county or place where the justice so indorsing such warrant shall have jurisdiction, to execute the said warrant in the county or place where it is so indorsed, by apprehending the person against whom such warrant shall have been granted, and to convey him into the county or place in Scotland next adjoining to that part of the United Kingdom called England, and carry him before the sheriff depute or substitute, or one of the justices of the peace, of such county or place, and which said sheriff depute or substitute, or justice of the peace, is hereby authorized and required thereupon to proceed in such and the same manner, according to the rules and practice of the law of Scotland, as if the said offender had been apprehended within such county or place in Scotland last aforesaid.

Procedure for
obtaining
attendance of
witnesses.

16. If it shall be made to appear to any justice of the peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses

against the accused, such justice may and he is hereby required to issue his summons (L. 1.) to such person, under his hand and seal, requiring him to be and appear at a time and place mentioned in such summons before the said justice, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify what he shall know concerning the charge made against such accused party; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having been served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode,) it shall be lawful for the justice or justices before whom such person should have appeared to issue a warrant (L. 2.) under his or their hands and seals to bring and have such person, at a time and place to be therein mentioned, before the justice who issued the said summons, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify as aforesaid, and which said warrant may, if necessary, be backed as herein-before is mentioned, in order to its being executed out of the jurisdiction of the justice who shall have issued the same; or if such justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence without being compelled so to do, then, instead of issuing such summons, it shall be lawful for him to issue his warrant (L. 3.) in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last-mentioned justice or justices, either in obedience to the said summons or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or, having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any justice of the peace then present, and having there jurisdiction, may by warrant (L. 4.) under his hand and seal commit the person so refusing to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

17. In all cases where any person shall appear or be brought before any justice or justices of the peace charged with any indictable offence, whether committed in England or Wales, or upon the high seas, or on land beyond the sea, or whether such

As to the examination of witnesses before justices.

person appear voluntarily upon summons or have been apprehended, with or without warrant, or be in custody for the same or any other offence, such justice or justices, before he or they shall commit such accused person to prison for trial, or before he or they shall admit him to bail, shall, in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him take the statement (M.) on oath or affirmation of those who shall know the facts and circumstances of the case, and shall put the same into writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the justice or justices taking the same; and the justice or justices before whom any such witness shall appear to be examined as aforesaid shall, before such witness is examined, administer to such witness the usual oath or affirmation, which such justice or justices shall have full power and authority to do; and if upon the trial of the person so accused as first aforesaid it shall be proved, by the oath or affirmation of any credible witness, that any person whose deposition shall have been taken as aforesaid is dead, or so ill as not to be able to travel, and if also it be proved that such deposition was taken in the presence of the person so accused, and that he or his counsel or attorney had a full opportunity of cross-examining the witness, then, if such deposition purport to be signed by the justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution, without further proof thereof, unless it shall be proved that such deposition was not in fact signed by the justice purporting to sign the same.

Reading of
depositions of
dead or absent
witnesses at
the trial.

Statement of
accused.

18. After the examinations of all the witnesses on the part of the prosecution as aforesaid shall have been completed, the justice of the peace or one of the justices by or before whom such examination shall have been so completed as aforesaid shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say anything in answer to the charge? you are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial"; and whatever the prisoner shall then say in answer thereto shall be taken down in writing (N.), and read over to him, and shall be signed by the said justice or justices, and kept with the depositions of the witnesses, and shall be transmitted with them as herein-after mentioned; and afterwards upon the trial of the said accused person the same may, if necessary, be given in evidence against him, without further proof thereof, unless it shall be proved that the justice or justices purporting to sign the same did not in fact sign the same:

Caution.

Provided always, that the said justice or justices before such accused person shall make any statement shall state to him, and give him clearly to understand, that he has nothing to hope from any promise of favour, and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence against him upon his trial, notwithstanding such promise or threat: Provided nevertheless, that nothing herein enacted or contained shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the person accused or charged, made at any time, which by law would be admissible as evidence against such person.

Admissions,
&c. of accused
made at other
time.

19. The room or building in which such justice or justices shall take such examinations and statement as aforesaid shall not be deemed an open court for that purpose; and it shall be lawful for such justice or justices, in his or their discretion, to order that no person shall have access to or be or remain in such room or building without the consent or permission of such justice or justices, if it appear to him or them that the ends of justice will be best answered by so doing.

Place of exa-
mination not
to be deemed
an open court.

20. It shall be lawful for the justice or justices before whom any such witness shall be examined as aforesaid to bind by recognizance (O. 1.) the prosecutor and every such witness to appear at the next court of oyer and terminer or gaol delivery, or superior court, of a county palatine, or court of general or quarter sessions of the peace, at which the accused is to be tried, then and there to prosecute, or to prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which said recognizance shall particularly specify the profession, art, mystery, or trade of every such person entering into or acknowledging the same, together with his christian and surname, and the parish, township, or place of his residence, and if his residence be in a city, town, or borough, the recognizance shall also particularly specify the name of the street, and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof or a lodger therein; and the said recognizance, being duly acknowledged by the person so entering into the same, shall be subscribed by the justice or justices before whom the same shall be acknowledged, and a notice (O. 2.) thereof, signed by the said justice or justices, shall at the same time be given to the person bound thereby; and the several recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the recognizance of bail (if any) in every such case, shall be delivered by the said justice or justices, or he or they shall cause the same to be delivered, to the proper officer of the court in which the trial is to be had, before or at the opening of the said court on the first day of the sitting thereof, or at such other time as the

Binding over
prosecutors
and witnesses
to appear at
trial.

judge, recorder, or justice who is to preside in such court at the said trial shall order and appoint: Provided always, that if any such witness shall refuse to enter into or acknowledge such recognizance as aforesaid it shall be lawful for such justice or justices of the peace, by his or their warrant (P. 1.) to commit him to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place, in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the meantime such witness shall duly enter into such recognizance as aforesaid before some one justice of the peace for the county, riding, division, liberty, city, borough, or place, in which such gaol or house of correction shall be situate: Provided nevertheless, that if afterwards, from want of sufficient evidence in that behalf or other cause, the justice or justices before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he is charged, it shall be lawful for such justice or justices, or any other justice or justices of the same county, riding, division, liberty, city, borough, or place, by his or their order (P. 2.) in that behalf to order and direct the keeper of such common gaol or house of correction where such witness shall be so in custody to discharge him from the same, and such keeper shall thereupon forthwith discharge him accordingly.

Remand and
bail.

21. If, from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the justice or justices before whom the accused shall appear or be brought, by his or their warrant (Q. 1.), from time to time to remand the party accused for such time as by such justice or justices in their discretion shall be deemed reasonable, not exceeding eight clear days, to the common gaol or house of correction, or other prison, lock-up house, or place of security, in the county, riding, division, liberty, city, borough, or place, for which such justice or justices shall then be acting; or if the remand be for a time not exceeding three clear days, it shall be lawful for such justice or justices verbally to order the constable or other person in whose custody such party accused may then be, or any other constable or person to be named by the said justice or justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same or such other justice or justices as shall be there acting, at the time appointed for continuing such examination: Provided always, that any such justice or justices may order such accused party to be brought before him or them, or before any other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, at any time before the expiration of the time for which such accused party shall be so remanded, and the gaoler or officer in whose custody he shall then be shall duly obey

such order: Provided also, that, instead of detaining the accused party in custody during the period for which he shall be so remanded, any one justice of the peace before whom such accused party shall so appear or be brought as aforesaid may discharge him, upon his entering into a recognizance (Q. 2. 3.), with or without a surety or sureties, at the discretion of such justice, conditioned for his appearance at the time and place appointed for the continuance of such examination; and if such accused party shall not afterwards appear at the time and place mentioned in such recognizance, then the said justice, or any other justice of the peace who may then and there be present, upon certifying (Q. 4.) on the back of the recognizance the nonappearance of such accused party, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place, within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the said accused party.

22. [*Recital.*] Whenever a person shall appear or shall be brought before a justice or justices of the peace in the county, riding, division, liberty, city, borough, or place, wherein such justice or justices shall have jurisdiction, charged with an offence alleged to have been committed by him in any county or place within England or Wales wherein such justice or justices shall not have jurisdiction, it shall be lawful for such justice or justices, and he and they are hereby required, to examine such witnesses, and receive such evidence in proof of such charge as shall be produced before him or them, within his or their jurisdiction; and if in his or their opinion such testimony and evidence shall be sufficient proof of the charge made against such accused party, such justice or justices shall thereupon commit him to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place, where the offence is alleged to have been committed, or shall admit him to bail, as herein-after mentioned, and shall bind over the prosecutor (if he have appeared before him or them) and the witnesses by recognizance accordingly, as is herein-before mentioned; but if such testimony and evidence shall not in the opinion of such justice or justices be sufficient to put the accused party upon his trial for the offence with which he is so charged, then such justice or justices shall bind over such witnesses as he shall have examined, by recognizance, to give evidence, as herein-before is mentioned, and such justice or justices shall, by warrant (R. 1.) under his or their hand and seal or hands and seals, order such accused party to be taken before some justice or justices of the peace in and for the county, riding, division, liberty, city, borough, or place where and near unto the place where the offence is alleged to have been committed, and shall at the same time deliver the information and complaint,

Examination
in one county
where offence
committed in
another.

and also the depositions and recognizances so taken by him or them, to the constable who shall have the execution of such last-mentioned warrant, to be by him delivered to the justice or justices before whom he shall take the accused in obedience to the said warrant, and which said depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the said last-mentioned justice or justices, and shall, together with such depositions and recognizances as such last-mentioned justice or justices shall take in the matter of such charge against the said accused party, be transmitted to the clerk of the court where the said accused party is to be tried, in the manner and at the time herein-before mentioned, if such accused party shall be committed for trial upon the said charge, or shall be admitted to bail; and in case such accused party shall be taken before the justice or justices last aforesaid by virtue of the said last-mentioned warrant, the constable or other person or persons to whom the said warrant shall have been directed, and who shall have conveyed such accused party before such last-mentioned justice or justices, shall be entitled to be paid his costs and expenses of conveying the said accused party before the said justice or justices; and upon the said constable or other person producing the said accused party before such justice or justices, and delivering him into the custody of such person as the said justice or justices shall direct or name in that behalf, and upon the said constable delivering to the said justice or justices the warrant, information (if any), depositions, and recognizances aforesaid, and proving by oath the handwriting of the justice or justices who shall have subscribed the same, such justice or justices to whom the said accused party is so produced shall thereupon forthwith ascertain the sum which ought to be paid to such constable or other person for conveying such accused party and taking him before such justice or justices, as also his reasonable costs and expenses of returning; and thereupon such justice or justices shall make an order (R. 2.) upon the treasurer of the county, riding, division, or liberty, city, borough, or place, or if such city, borough, or place shall be contributory to the county rate of any county, riding, division, or liberty, then upon the treasurer of such county, riding, division, or liberty respectively to which it is contributory, for payment to such constable or other person of the sum so ascertained to be payable to him in that behalf; and the said treasurer, upon such order being produced to him, shall pay the amount to the said constable or other person producing the same, or to any person who shall present the same to him for payment: Provided always, that if such last-mentioned justice or justices shall not think the evidence against such accused party sufficient to put him upon his trial, and shall discharge him without holding him to bail, every such recognizance so taken by the said first-mentioned justice or justices as aforesaid shall be null and void.

23. Where any person shall appear or be brought before a justice of the peace charged with any felony, or with any assault with intent to commit any felony, or with any attempt to commit any felony, or with obtaining or attempting to obtain property by false pretences, or with a misdemeanor in receiving property stolen or obtained by false pretences, or with perjury or subornation of perjury, or with concealing the birth of a child by secret burying or otherwise, or with wilful or indecent exposure of the person, or with riot, or with assault in pursuance of a conspiracy to raise wages, or assault upon a peace officer in the execution of his duty, or upon any person acting in his aid, or with neglect or breach of duty as a peace officer, or with any misdemeanor for the prosecution of which the costs may be allowed out of the county rate, such justice of the peace may, in his discretion, admit such person to bail, upon his procuring and producing such surety or sureties as in the opinion of such justice will be sufficient to ensure the appearance of such accused person at the time and place when and where he is to be tried for such offence; and thereupon such justice shall take the recognizance (S. 1. 2.) of the said accused person and his surety or sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial, and not depart the court without leave; and in all cases where a person charged with any indictable offence shall be committed to prison to take his trial for the same, it shall be lawful, at any time afterwards, and before the first day of the sitting or session at which he is to be tried, or before the day to which such sitting or session may be adjourned, for the justice or justices of the peace who shall have signed the warrant for his commitment, in his or their discretion, to admit such accused person to bail in manner aforesaid; or if such committing justice or justices shall be of opinion that for any of the offences herein-before mentioned the said accused person ought to be admitted to bail, he or they shall in such cases, and in all other cases of misdemeanors, certify (S. 3.) on the back of the warrant of commitment his or their consent to such accused party being bailed, stating also the amount of bail which ought to be required, it shall be lawful for any justice of the peace attending or being at the gaol or prison where such accused party shall be in custody, on production of such certificate, to admit such accused person to bail in manner aforesaid; or if it shall be inconvenient for the surety or sureties in such a case to attend at such gaol or prison to join with such accused person in the recognizance of bail, then such committing justice or justices may make a duplicate of such certificate (S. 4.) as aforesaid, and upon the same being produced to any justice of the peace for the same county, riding, division, liberty, city, borough, or place, it shall be lawful for such last-mentioned justice to take the recognizance of the surety or sureties in conformity with such certificate, and upon such recognizance

Powers of
justices as to
bail.

being transmitted to the keeper of such gaol or prison, and produced, together with the certificate on the warrant of commitment as aforesaid, to any justice of the peace attending or being at such gaol or prison, it shall be lawful for such last-mentioned justice thereupon to take the recognizance of such accused party, and to order him to be discharged out of custody as to that commitment, as herein-after mentioned; and where any person shall be charged before any justice of the peace with any indictable misdemeanor other than those herein-before mentioned, such justice, after taking the examinations in writing as aforesaid, instead of committing him to prison for such offence, shall admit him to bail in manner aforesaid, or if he have been committed to prison, and shall apply to any one of the visiting justices of such prison, or to any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, before the first day of the sitting or session at which he is to be tried, or before the day to which such sitting or session may be adjourned, to be admitted to bail, such justice shall accordingly admit him to bail in manner aforesaid; and in all cases where such accused person in custody shall be admitted to bail by a justice of the peace other than the committing justice or justices as aforesaid, such justice of the peace so admitting him to bail shall forthwith transmit the recognizance or recognizances of bail to the committing justice or justices, or one of them, to be by him or them transmitted, with the examinations, to the proper officer: Provided nevertheless, that no justice or justices of the peace shall admit any person to bail for treason, nor shall such person be admitted to bail, except by order of one of her Majesty's Secretaries of State, or by her Majesty's Court of Queen's Bench at Westminster, or a judge thereof in vacation: . . .

No bail in cases of treason but by order of Secretary of State, &c.

Warrant of deliverance on bail.

24. In all cases where a justice or justices of the peace shall admit to bail any person who shall then be in any prison charged with the offence for which he shall be so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such prison a warrant of deliverance (S. 5.) under his or their hand and seal or hands and seals, requiring the said keeper to discharge the person so admitted to bail, if he be detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with such keeper he shall forthwith obey the same.

Discharge or commitment for trial.

25. When all the evidence offered upon the part of the prosecution against the accused party shall have been heard, if the justice or justices of the peace then present shall be of opinion that it is not sufficient to put such accused party upon his trial for any indictable offence, such justice or justices shall forthwith order such accused party, if in custody, to be discharged as to the information then under inquiry; but if in the opinion of such justice or justices such evidence is sufficient to put the

accused party upon his trial for an indictable offence, or if the evidence given raise a strong or probable presumption of the guilt of such accused party, then such justice or justices shall, by his or their warrant (T. 1.), commit him to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place, to which by law he may now be committed, or, in the case of an indictable offence committed on the high seas, or on land beyond the sea, to the common gaol of the county, riding, division, liberty, city, borough, or place, within which such justice or justices shall have jurisdiction, to be there safely kept until he shall be thence delivered by due course of law, or admit him to bail as herein-before mentioned.

26. The constable or any of the constables or other persons to whom the said warrant of commitment shall be directed shall convey such accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with such warrant, to the gaoler, keeper, or governor of such gaol or prison, who shall thereupon give such constable or other person so delivering such prisoner into his custody a receipt (T. 2.) for such prisoner, setting forth the state and condition in which such prisoner was when he was delivered into the custody of such gaoler, keeper, or governor; and in all cases where such constable or other person shall be entitled to his costs or expenses for conveying such person to such prison as aforesaid, it shall be lawful for the justice or justices who shall have committed the accused party, or for any justice of the peace in and for the said county, riding, division, or other place of exclusive jurisdiction, wherein the offence is alleged in the said warrant to have been committed, to ascertain the sum which ought to be paid to such constable or other person for conveying such prisoner to such gaol or prison, and also the sum which should reasonably be allowed him for his expenses in returning, and thereupon such justice shall make an order (T. 2.) upon the treasurer of such county, riding, division, liberty, or place of exclusive jurisdiction, or if such place of exclusive jurisdiction shall be contributory to the county rate of any county, riding, or division, then upon the treasurer of such county, riding, or division respectively, or, in the county of Middlesex, upon the overseers of the poor of the parish or place within which the offence is alleged to have been committed, for payment to such constable or other person of the sums so ascertained to be payable to him in that behalf; and the said treasurer or overseers, upon such order being produced to him or them respectively, shall pay the amount thereof to such constable or other person producing the same, or to any person who shall present the same to him or them for payment: Provided nevertheless, that if it shall appear to the justice or justices by whom any such warrant of commitment against such prisoner shall be granted as aforesaid that such prisoner hath money sufficient to pay the expences, or some part thereof, of

Conveyance to
gaol.

conveying him to such gaol or prison, it shall be lawful for such justice or justices, in his or their discretion, to order such money, or a sufficient part thereof, to be applied to such purpose.

Copies of
depositions.

27. At any time after all the examinations aforesaid shall have been completed, and before the first day of the assizes or sessions or other first sitting of the court at which any person so committed to prison or admitted to bail as aforesaid is to be tried, such person may require and shall be entitled to have, of and from the officer or person having the custody of the same, copies of the depositions on which he shall have been committed or bailed, on payment of a reasonable sum for the same, not exceeding at the rate of three halfpence for each folio of ninety words.

Forms in
schedule.

28. The several forms in the schedule to this Act contained, or forms to the same or the like effect, shall be deemed good, valid, and sufficient in law.

Metropolitan
police magis-
trates, and
stipendiary
magistrates
may act alone.

29. Any one of the magistrates appointed or hereafter to be appointed to act at any of the police courts of the Metropolis, and sitting at a police court within the metropolitan police district, and every stipendiary magistrate appointed or to be appointed for any other city, town, liberty, borough, or place, and sitting at a police court or other place appointed in that behalf, shall have full power to do alone whatsoever is authorized by this Act to be done by any one or more justice or justices of the peace; and the several forms in the schedule to this Act contained may be varied, so far as it may be necessary to render them applicable to the police courts aforesaid, or to the court or other place of sitting of such stipendiary magistrate; and nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in the Metropolitan Police Act, 1829, or in the Metropolitan Police Act, 1839, or in the Metropolitan Police Courts Act, 1839, or in an Act passed in the fourth year of the reign of her present Majesty, intituled "An Act for better defining the powers of justices within the metropolitan police district."

10 Geo. 4.
c. 44.
2 & 3 Vict.
c. 47.
2 & 3 Vict.
c. 71.
3 & 4 Vict.
c. 84.

Lord Mayor,
or alderman of
London, may
act alone.

30. It shall be lawful for the Lord Mayor of the City of London, or for any alderman of the said city, for the time being, sitting at the Mansion House or Guildhall justice rooms in the said city, to do alone any act, at either of the said justice rooms, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice; and nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in an Act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the police in the city of London."

2 & 3 Vict.
c. xciv.

31. The chief magistrate of the metropolitan police court at Bow Street for the time being shall be a justice of the peace of and for the county of Berks, if his name be inserted in the commission of the peace for that county, without possessing the qualification by estate required by law in that behalf, and without taking any oath of qualification.

32. The town of Berwick-upon-Tweed shall be deemed to be within England for all the purposes of this Act, but nothing in this Act shall be deemed or taken to extend to Scotland or Ireland, or to the Isles of Man, Jersey, or Guernsey, save and except the several provisions respectively herein-before contained respecting the backing of warrants, and also nothing in this Act shall be deemed to alter or affect the jurisdiction or practice of her Majesty's Court of Queen's Bench.

[Ss. 33-35 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

SCHEDULE.

(A.)

Sect. 1.

Information and Complaint for an indictable Offence.

} The information and complaint of C.D., of
to wit. } , [yeoman], taken this day of
 in the year of our Lord 184 , before the undersigned,
[one] of her Majesty's justices of the peace in and for the said [county]
of , who saith that [*&c. stating the offence*].
Sworn before [me], the day and year first above mentioned, at
J.S.

(B.)

Sect. 1.

Warrant to apprehend a Person charged with an indictable Offence.

To the constable of _____, and to all other peace officers
in the said [county] of _____.

WHEREAS *A.B.*, of _____, [*labourer*], hath this day been charged upon oath before the undersigned, [*one*] of her Majesty's justices of the peace in and for the said county of _____, for that he on _____, at _____, did [*&c. stating shortly the offence*]: These are therefore to command you, in her Majesty's name, forthwith to apprehend the said *A.B.*, and to bring him before [*me*], or some other of her Majesty's justices of the peace in and for the said [*county*], to answer unto the said charge, and to be further dealt with according to law.

Given under my hand and seal, this _____ day of _____
in the year of our Lord _____, at _____, in the
[*county*] aforesaid

J.S. (L.S.)

(C.) Sect. 1.

*Summons to a Person charged with an indictable Offence.*To *A.B.*, of [labourer].

WHEREAS you have this day been charged before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of [] for that you on [] at [] &c., stating shortly the offence: These are therefore to command you, in her Majesty's name, to be and appear before me on [] at [] o'clock in the forenoon, at [] or before such other justice or justices of the peace for the same [county] as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under my hand and seal, this [] day of [] in the year of our Lord [] at [], in the county aforesaid.

J.S. (L.S.)

(D.) Sect. 1.

Warrant where the Summons is disobeyed.

To the constable of [], and to all other peace officers in the said [county] of []

WHEREAS on the [] last past *A.B.*, of [labourer], was charged before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of [] for that [&c., as in the summons]: And whereas [I] then issued [my] summons to the said *A.B.*, commanding him, in her Majesty's name, to be and appear before [me] on [] at [] o'clock in the forenoon, at [] or before such other justice or justices of the peace for the same [county] as might then be there, to answer to the said charge, and to be further dealt with according to law: And whereas the said *A.B.* hath neglected to be or appear at the time and place appointed in and by the said summons, although it hath now been proved to me upon oath that the said summons was duly served upon the said *A.B.*: These are therefore to command you, in her Majesty's name, forthwith to apprehend the said *A.B.*, and to bring him before me, or some other of her Majesty's justices of the peace in and for the said [county], to answer to the said charge, and to be further dealt with according to law.

Given under my hand and seal, this [] day of [] in the year of our Lord [] at [], in the [county] aforesaid.

J.S. (L.S.)

(E.) Sect. 2.

Warrant to apprehend a Person charged with an indictable Offence committed on the High Seas or Abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any county of this realm, and "within the jurisdiction of the Admiralty of England."

For offences committed abroad for which the parties may be indicted in this country the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of the United Kingdom, to wit, at _____, in the "kingdom of _____," or "at _____, in the East Indies," or "at _____, in the Island of _____, in the West Indies," or as the case may be.

(F.)

Sect. 3.

Certificate of Indictment being found.

I HEREBY certify, that at [a court of oyer and terminer and general gaol delivery, or a court of general quarter sessions of the peace,] holden in and for the [county] of _____, at _____, in the said [county], on _____, a bill of indictment was found by the grand jury against A.B., therein described as A.B., late of _____, [labourer], for that he [&c., stating shortly the offence], and that the said A.B. hath not appeared or pleaded to the said indictment.

Dated this _____ day of _____ 184 .

J.D.

Clerk of the indictments on the _____ circuit.
or

Clerk of the peace of and for the said [county].

(G.)

Sect. 3.

Warrant to apprehend a Person indicted.

To the constable of _____, and to all other peace officers in the said [county] of _____.

WHEREAS it hath been duly certified by J.D., clerk of the indictments on the _____ circuit [or clerk of the peace of and for the [county] of _____], [that, &c., stating the certificate]: These are therefore to command you, in her Majesty's name, forthwith to apprehend the said A.B., and to bring him before [me], or some other justice or justices of the peace in and for the said [county], to be dealt with according to law.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [county] aforesaid.

J.S. (L.S.)

(H.)

Sect. 3.

Warrant of Commitment of a Person indicted.

To the constable of _____, and to the keeper of the [common gaol, or house of correction,] at _____, in the said [county] of _____.

WHEREAS by [my] warrant under my hand and seal, dated the _____ day of _____, after reciting that it had been certified by J.D., [&c., as in the certificate], [I] commanded the

constable of _____, and all other peace officers of the said county, in her Majesty's name, forthwith to apprehend the said *A.B.*, and to bring him before [*me*], the undersigned, [*one*] of her Majesty's justices of the peace in and for the said [*county*], or before some other justice or justices of the peace in and for the said [*county*], to be dealt with according to law: And whereas the said *A.B.* hath been apprehended under and by virtue of the said warrant, and being now brought before [*me*], it is hereupon duly proved to [*me*] upon oath that the said *A.B.* is the same person who is named and charged in and by the said indictment: These are therefore to command you the said constable, in her Majesty's name, forthwith to take and safely convey the said *A.B.* to the said [*house of correction*] at _____, in the said [*county*], and there to deliver him to the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said *A.B.* into your custody in the said house of correction, and him there safely to keep until he shall be thence delivered by due course of law.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [*county*] aforesaid.

J.S. (L.S.)

(I.)

Sect. 3.

Warrant to detain a Person indicted who is already in Custody for another Offence.

To the keeper of the [common gaol, or house of correction,] at _____, in the said [*county*] of _____

WHEREAS it hath been duly certified by J.D., clerk of the indictment on the _____ or clerk of the peace of and for the county of _____, that [*&c.*, stating the certificate]: And whereas [*I am*] informed that the said *A.B.* is in your custody in the said [*common gaol*] at _____ aforesaid, charged with some offence or other matter; and it being now duly proved upon oath before [*me*] that the said *A.B.* so indicted as aforesaid, and the said *A.B.* in your custody as aforesaid, are one and the same person: These are therefore to command you, in her Majesty's name, to detain the said *A.B.* in your custody in the [*common gaol*] aforesaid, until by her Majesty's writ of habeas corpus he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under my hand and seal, this _____ day of _____ in the _____ year of our Lord _____, at _____, in the [*county*] aforesaid.

J.S. (L.S.)

(K.)

Sect. 12.

Indorsement in backing a Warrant.

to wit. } WHEREAS proof upon oath hath this day been made before
[*county*] of } me, one of her Majesty's justices of the peace for the said
subscribed, is of the handwriting of the justice of the peace within _____, that the name of J.S., to the within warrant

mentioned; I do therefore hereby authorize *W.T.*, who bringeth to me this warrant, and all other persons to whom this warrant was originally directed, or by whom it may lawfully be executed, and also all constables and other peace officers of the said [county] of , to execute the same within the said last-mentioned [county],* and to bring the said *A.B.*, if apprehended within the same [county], before me, or before some other justice or justices of the peace of the same county, to be dealt with according to law.

Given under my hand, this

day of

184 .

J.L.

* *The words following this asterisk are to be used only where the justice backing the warrant shall think fit, and may be omitted in backing English warrants in Ireland, Scotland, &c., or in backing Irish or Scotch warrants, &c. in England.*

(L. 1.)

Sect. 16.

Summons of a Witness.

To *E.F.*, of , [labourer].

WHEREAS information hath been laid before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of , that *A.B.*, [&c., as in the summons or warrant against the accused], and it hath been made to appear to me upon [oath] that you are likely to give material evidence for the [prosecution]: These are therefore to require you to be and to appear before me on next, at o'clock in the forenoon, at , or before such other justice or justices of the peace for the same county as may then be there, to testify what you shall know concerning the said charge so made against the said *A.B.* as aforesaid. Herein fail not.

Given under my hand and seal, this day of in the year of our Lord , at , in the [county] aforesaid.
J.S. (L.S.)

(L. 2.)

Sect. 16.

Warrant where a Witness has not obeyed a summons.

To the constable of , and to all other peace officers in the said [county] of .

WHEREAS information having been laid before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of , that *A.B.*, [&c., as in the summons]; and it having been made to appear to [me] upon oath that *E.F.*, of , [labourer], was likely to give material evidence for the prosecution, I did duly issue my summons to the said *E.F.*, requiring him to be and appear before me on , at , or before such other justice or justices of the peace for the same county as might then be there, to testify what he should know respecting the said charge so made against the said *A.B.* as aforesaid: And whereas proof hath this day been made before me upon oath of such summons having been duly served upon the said *E.F.*: And whereas the said *E.F.* hath neglected to appear at the time and place appointed by the said summons, and no just excuse has been

offered for such neglect: These are therefore to command you to bring and have the said *E.F.* before me on _____, at _____ o'clock in the forenoon, at _____, or before such other justice or justices of the peace for the same [county] as may then be there, to testify what he shall know concerning the said charge so made against the said *A.B.* as aforesaid.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [county] aforesaid.
J.S. (L.S.)

(L. 3.) Sect. 16.

Warrant for a Witness in the first instance.

To the constable of _____, and to all other peace officers in the said [county] of _____.

WHEREAS information hath been laid before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of _____, that [&c., as in summons]; and it having been made to appear to [me] upon oath that *E.F.*, of _____, [labourer], is likely to give material evidence for the prosecution, and that it is probable that the said *E.F.* will not attend to give evidence without being compelled so to do: These are therefore to command you to bring and have the said *E.F.* before me on _____, at _____ o'clock in the forenoon, at _____, or before such other justice or justices of the peace for the same [county] as may then be there, to testify what he shall know concerning the said charge so made against the said *A.B.* as aforesaid.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [county] aforesaid.
J.S. (L.S.)

(L. 4.) Sect. 16.

Warrant of Commitment of a Witness for refusing to be sworn or to give Evidence.

To the constable of _____, and to the keeper of the [house of correction] at _____, in the said [county] of _____.

WHEREAS *A.B.* was lately charged before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of _____, for that [&c., as in the summons]; and it having been made to appear to [me] upon oath that *E.F.*, of _____, was likely to give material evidence for the prosecution, I duly issued my summons to the said *E.F.*, requiring him to be and appear before me on _____, at _____, or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge so made against the said *A.B.* as aforesaid; and the said *E.F.* now appearing before me [or being brought before me by virtue of a warrant in that behalf, to testify as aforesaid], and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do [or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are here put to him],

without offering any just excuse for such his refusal: These are therefore to command you the said constable to take the said *E.F.*, and him safely to convey to the [house of correction] at _____, in the county aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said *E.F.* into your custody in the said [house of correction], and him there safely keep for the space of _____ days for his said contempt, unless he shall in the meantime consent to be examined and to answer concerning the premises; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [county] aforesaid.

J.S. (L.S.)

(M.)

Sect. 17.

Depositions of Witnesses.

to wit. } The examination of *C.D.*, of _____, [farmer], and *E.F.*,
 of _____, [labourer], taken on [oath] this _____
 day of _____ in the year of our Lord _____, at _____,
 in the [county] aforesaid, before the under-
 signed, [one] of her Majesty's justices of the peace for the
 said [county], in the presence and hearing of *A.B.*, who is
 charged this day before [me], for that he the said *A.B.*
 on _____, at _____, [&c., describing the offence
 as in a warrant of commitment].

THIS deponent *C.D.*, on his [oath], saith as follows; [&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete let him sign it].

And this deponent *E.F.*, upon his oath, saith as follows; [&c.]

The above depositions of *C.D.* and *E.F.* were taken and [sworn] before me at _____, on the day and year first above mentioned.

J.S.

(N.)

Sect. 18.

Statement of the Accused.

: *A.B.* stands charged before the undersigned, [one] of her Majesty's justices of the peace in and for the [county] aforesaid, this _____ day of _____ in the year of our Lord _____, for that he the said *A.B.*, on _____, at _____, [&c., as in the caption of the depositions]; and the said charge being read to the said *A.B.*, and the witnesses for the prosecution, *C.D.* and *E.F.*, being severally examined in his presence, the said *A.B.* is now addressed by me as follows: " Having heard the evidence, do you wish to say any thing in answer to the charge? You are not obliged to say any thing unless you desire to do so; but whatever you say will be taken down in writing, and may be given in

evidence against you upon your trial"; whereupon the said *A.B.* saith as follows:

[*Here state whatever the prisoner may say, and in his very words, as nearly as possible. Get him to sign it if he will.*]

A.B.

Taken before me, at _____, the day and year first above mentioned.

J.S.

(O. 1.)

Sect. 20.

Recognizance to prosecute or give Evidence.

: BE it remembered, that on the _____ day of _____ in the year of our Lord _____, *C.D.*, of _____, in the said county, *farmer*, [or *C.D.*, of No. 2, _____ street, in the parish of _____, in the borough of _____, *surgeon*, of which said house he is tenant,] personally came before me, one of Her Majesty's justices of the peace for the said county, and acknowledged himself to owe to our Sovereign lady the Queen the sum of _____ of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said lady the Queen, her heirs and successors, if he the said *C.D.* shall fail in the condition endorsed.

Taken and acknowledged, the day and year first above mentioned, at _____, before me,

J.S.

Condition to prosecute.

The condition of the within-written recognizance is such, that whereas one *A.B.* was this day charged before me, *J.S.*, justice of the peace within mentioned, for that [*&c., as in the caption of the depositions*]: If therefore he the said *C.D.* shall appear at the next court of oyer and terminer or general gaol delivery [or at the next court of general quarter sessions of the peace] to be holden in and for the [county] of _____,

, * and there prefer or cause to be preferred a bill of indictment for the offence aforesaid against the said *A.B.*, and there also duly prosecute such indictment, then the said recognizance to be void, or else to stand in full force and virtue.

Condition to prosecute and give Evidence.

Same as the last form to the asterisk, and then thus:—*"and there prefer or cause to be preferred a bill of indictment against the said *A.B.* for the offence aforesaid, and duly prosecute such indictment, and give evidence thereon, as well to the jurors who shall then inquire of the said offence as also to them who shall pass upon the trial of the said *A.B.*, then the said recognizance to be void, or else to stand in full force and virtue."

Condition to give Evidence.

Same as the last form but one to the asterisk, and then thus:—*
 “and there give such evidence as he knoweth upon a bill of indictment to be then and there preferred against the said *A.B.* for the offence aforesaid, as well to the jurors who shall there inquire of the said offence as also to the jurors who shall pass upon the trial of the said *A.B.*, if the said bill shall be found a true bill, then the said recognizance to be void, or else to stand in full force and virtue.”

(O. 2.)

Sect. 20.

Notice of the said Recognizance to be given to the Prosecutor and his Witnesses.

{ TAKE notice, that you *C.D.*, of _____, are bound
 to wit. } in the sum of _____ to appear at the next court of
 [general quarter sessions of the peace] in and for the county of _____
 , to be holden at _____, in the said county, and then
 and there [prosecute and] give evidence against *A.B.*; and unless you
 then appear there, and [prosecute and] give evidence accordingly, the
 recognizance entered into by you will be forthwith levied on you. Dated
 this _____ day of _____ 184 _____

J.S.

(P. 1.)

Sect. 20.

Commitment of Witness for refusing to enter into the Recognizance.

To the constable of _____, and to the keeper of the
 [house of correction] at _____, in the said [county]
 of _____

WHEREAS *A.B.* was lately charged before the undersigned, [one] of her Majesty's justices of the peace in and for the said [county] of _____, for that [&c., as in the summons to the witness]; and it having been made to appear to [me] upon oath that *E.F.*, of _____, was likely to give material evidence for the prosecution, [I] duly issued [my summons to the said *E.F.*, requiring him to be and appear] before [me] on _____, at _____, or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge so made against the said *A.B.* as aforesaid; and the said *E.F.*, now appearing before [me], [or being brought before [me] by virtue of a warrant in that behalf, to testify as aforesaid,] hath been now examined by [me] touching the premises, but being by [me] required to enter into a recognizance conditioned to give evidence against the said *A.B.* hath now refused so to do: These are therefore to command you, the said constable, to take the said *E.F.*, and him safely to convey to the [house of correction] at _____, in the [county] aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said [house of correction], to receive the said *E.F.* into your custody in the said house of correction, there to imprison and safely keep him until after the trial of the said *A.B.* for the offence aforesaid, unless in the meantime such *E.F.* shall duly enter into such recognizance as aforesaid in the sum of _____ pounds, before some one justice of the peace for

the said [county], conditioned in the usual form to appear at the next court of [oyer and terminer or general gaol delivery, or general quarter sessions of the peace,] to be holden in and for the [county] of

, and there to give evidence before the grand jury upon any bill of indictment which may then and there be preferred against the said *A.B.* for the offence aforesaid, and also to give evidence upon the trial of the said *A.B.* for the said offence, if a true bill should be found against him for the same.

Given under my hand and seal, this day of in
the year of our Lord , at , in the [county]
aforesaid.

(P. 2.) Sect. 20.

Subsequent Order to discharge the Witness.

To the keeper of the [house of correction] at , in the
[county] of

WHEREAS by [my] order dated the day of
[instant], reciting that *A.B.* was lately before them, charged before
[me] for a certain offence therein mentioned, and that *E.F.* having
appeared before me, and being examined as a witness for the prosecution
in that behalf, refused to enter into a recognizance to give evidence
against the said *A.B.*, and I therefore thereby committed the said *E.F.*
to your custody, and required you safely to keep him until after the
trial of the said *A.B.* for the offence aforesaid, unless in the meantime
he should enter into such recognizance as aforesaid: And whereas for
want of sufficient evidence against the said *A.B.* the said *A.B.* has not
been committed or holden to bail for the said offence, but on the con-
trary thereof has been since discharged, and it is therefore not necessary
that the said *E.F.* should be detained longer in your custody: These
are therefore to order and direct you, the said keeper, to discharge the
said *E.F.* out of your custody as to the said commitment, and suffer him
to go at large.

Given under [my] hand and seal, this day of
in the year of our Lord , at , in the [county]
aforesaid.

J.S. (L.S.)

(Q. 1.) Sect. 21.

Warrant remanding a Prisoner.

To the constable of , and to the [keeper of the house of
correction] at , in the said [county] of

WHEREAS *A.B.* was this day charged before the undersigned, [one]
of her Majesty's justices of the peace in and for the said [county] of
 , for that [&c., as in the warrant to apprehend]; and
it appears to me to be necessary to remand the said *A.B.*: These are
therefore to command you, the said constable in her Majesty's name,
forthwith to convey the said *A.B.* to the [house of correction] at
 , in the said [county], and there to deliver him to the
keeper thereof, together with this precept; and I hereby command you,
the said keeper, to receive the said *A.B.* into your custody in the said

house of correction, and there safely keep him until the day of instant, when *I* hereby command you to have him at , at o'clock in the forenoon of the same day, before me, or before such other justice or justices of the peace for the said [county] as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, this day of in the year of our Lord , at , in the [county] aforesaid.

J.S. (L.S.)

(Q. 2.)

Sect. 21.

Recognizance of Bail instead of Remand, on an Adjournment of Examination.

: Be it remembered, that on the day of in the year of our Lord , *A.B.*, of , labourer, *L.M.*, of , grocer, and *N.O.*, of , butcher, personally came before me, one of her Majesty's justices of the peace for the said [county], and severally acknowledged themselves to owe to our lady the Queen the several sums following; that is to say, the said *A.B.* the sum of , and the said *L.M.* and *N.O.* the sum of each, of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said lady the Queen, her heirs and successors, if he the said *A.B.* fail in the condition endorsed.

Taken and acknowledged, the day and year first above mentioned, at , before me

J.S.

Condition.

The condition of the within-written recognizance is such, that whereas the within-bounden *A.B.* was this day [or on last past] charged before me, for that [*&c.*, as in the warrant]: And whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of instant: If therefore the said *A.B.* shall appear before me on the said day of instant, at o'clock in the forenoon, or before such other justice or justices of the peace for the said [county] as may then be there, to answer [further] to the said charge, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

(Q. 3.)

Sect. 21.

Notice of such Recognizance to be given to the Accused and his Sureties.

: Take notice, that you *A.B.*, of , are bound in the sum of , and your sureties *L.M.* and *N.O.* in the sum of each, that you *A.B.* appear before me *J.S.*, one of her

Majesty's justices of the peace for the [county] of _____, on
the _____ day of _____ instant, at
o'clock in the forenoon, at _____, or before such other justice or
justices of the peace for the same [county] as may then be there, to
answer further to the charge made against you by *C.D.*, and to be
further dealt with according to law; and unless you *A.B.* personally
appear accordingly, the recognizances entered into by yourself and
sureties will be forthwith levied on you and them. Dated this
day of _____ 184 .

J.S.

(Q. 4.)

Sect. 21.

Certificate of Nonappearance to be endorsed on the Recognizance.

I hereby certify, that the said *A.B.* hath not appeared at the time
and place in the above condition mentioned, but therein hath made
default, by reason whereof the within-written recognizance is forfeited.

J.S.

(R. 1.)

Sect. 22.

*Warrant to convey the Accused before a Justice of the County, &c. in
which the offence was committed.*

To *W.T.*, constable of _____, and to all other peace officers
in the said [county] of _____.

WHEREAS *A.B.*, of _____, labourer, hath this day been
charged before the undersigned, [one] of her Majesty's justices of the
peace in and for the said county of _____, for that [*&c.*, as in
the warrant to apprehend]: And whereas [*I*] have taken the deposi-
tion of *C.D.*, a witness examined by [*me*] in this behalf; but inasmuch
as [*I*] am informed that the principal witnesses to prove the said offence
against the said *A.B.* reside in the [county] of *C.*, where the said offence
is alleged to have been committed: These are therefore to command
you, the said constable, in her Majesty's name, forthwith to take and
convey the said *A.B.* to the said [county] of *C.*, and there carry him
before some justice or justices of the peace in and for that [county], and
near unto the [parish of *D.*], where the offence is alleged to have been
committed, to answer further to the said charge before him or them, and
to be further dealt with according to law; and [*I*] hereby further com-
mand you, the said constable, to deliver to the said justice or justices
the information in this behalf, and also the said deposition of *C.D.*, now
given into your possession for that purpose, together with this precept.

Given under my hand and seal, this _____ day of _____
in the year of our Lord _____, at _____, in the [county]
aforesaid.

J.S. (L.S.)

(R. 2.)

Sect. 22.

Order for Payment of the Constable's Expences.

To *R.W.*, Esquire, treasurer of the said county of *C.*

WHEREAS *W.T.*, constable of _____, in the county of *A.*, hath
by virtue of and in obedience to a certain warrant of *J.S.*, Esquire,

[one] of her Majesty's justices of the peace in and for the said county of A., taken and conveyed one A.B., charged before the said J.S. with having [*&c., stating shortly the offence*], from _____ in the said county of A. to _____ in the said county of C., a distance of _____ miles, and produced the said A.B. before me S.P., one of her Majesty's justices of the peace in and for the said county of C., and delivered him into the custody of _____, by [*my*] direction, to answer to the said charge, and further to be dealt with according to law: And whereas the said W.T. hath also delivered to [*me*] the said warrant, together with the information in that behalf, and also the deposition of C.D. in the said warrant mentioned, and hath proved to [*me*] upon oath the handwriting of the said J.S. subscribed to the same: And whereas [*I*] have ascertained that the sum which ought to be paid to the said W.T. for conveying the said A.B. from the said county of A. to the said county of C., and taking him before [*me*], is the sum of _____, and that the reasonable expences of the said W.T. in returning will amount to the further sum of _____, making together the sum of _____: These are therefore to order you, as such treasurer of the said county of C., to pay unto the said W.T. the said sum of _____, according to the form of the statute in such case made and provided, for which payment this order shall be your sufficient voucher and authority.

Given under my hand, this _____ day of _____ 184 .
J.P.

(S. 1.)

Sect. 23.

Recognizance of Bail.

BE it remembered, that on the _____ day of _____ in the year of our Lord _____, A.B., of _____, labourer, L.M., of _____, grocer, and N.O., of _____, butcher, personally came before [*us*] the undersigned, two of her Majesty's justices of the peace for the said [*county*], and severally acknowledged themselves to owe to our lady the Queen the several sums following; (that is to say,) the said A.B. the sum of _____, and the said L.M. and N.O. the sum of _____ each, of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said lady the Queen, her heirs and successors, if he the said A.B. fail in the condition indorsed.

Taken and acknowledged, the day and year first above mentioned, at _____, before us,

J.S.
J.N.

Condition of ordinary Cases.

THE condition of the within-written recognizance is such, that whereas the said A.B. was this day charged before [*us*], the justices within mentioned, for that [*&c., as in the warrant*]: If therefore the said A.B. will appear at the next court of oyer and terminer and general gaol delivery [*o.* court of general quarter sessions of the peace] to be holden in and for the county of _____, and there surrender himself into the custody of the keeper of the [*common gaol*] there, and plead to such indictment as may be found against him by the grand jury,

for or in respect of the charge aforesaid, and take his trial upon the same, and not depart the said court without leave, then the said recognizance to be void, or else to stand in full force and virtue.

.

(S. 2.)

Sect. 23.

Notice of the said Recognizance to be given to the Accused and his Bail.

TAKE notice, that you *A.B.*, of _____, are bound in the sum of _____, and your [sureties *L.M. and N.O.*] in the sum of _____ each, that you *A.B.* appear, &c. [as in the condition of the recognizance], and not depart the said court without leave; and unless you the said *A.B.* personally appear and plead, and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them. Dated this _____ day of _____ 184 .

J.S.

(S. 3.)

Sect. 23.

Certificate of Consent to Bail by the committing Justice indorsed on the Commitment.

I HEREBY certify, that I consent to the within-named *A.B.* being bailed by recognizance, himself in _____, and [two] sureties in each.

J.S.

(S. 4.)

Sect. 23.

The like, on a separate Paper.

WHEREAS *A.B.* was on the _____ committed by me to the [house of correction] at _____, charged with [&c. naming the offence shortly]:

I hereby certify, that I consent to the said *A.B.* being bailed by recognizance, himself in _____, and [two] sureties in each. Dated the _____ day of _____ 184 .

J.S.

(S. 5.)

Sect. 24.

Warrant of Deliverance on Bail being given for a Prisoner already committed.

To the keeper of the [house of correction] at _____, in the said [county] of _____.

WHEREAS *A.B.*, late of _____, labourer, hath before [us, two] of her Majesty's justices of the peace in and for the said county,

entered into his own recognizance, and found sufficient sureties, for his appearance at the next court of oyer and terminer and general gaol delivery [or court of general quarter sessions of the peace] to be holden in and for the county of _____, to answer our sovereign lady the Queen, for that [*&c. as to the commitment*], for which he was taken and committed to your said [house of correction]: These are therefore to command you, in her said Majesty's name, that if the said A.B. do remain in your custody in the said [house of correction] for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this _____ day of _____ in the year of our Lord _____, at _____, in the [county] aforesaid.

J.S. (L.S.)
J.N. (L.S.)

(T. 1.)

Sect. 25.

Warrant of Commitment.

To the constable of _____, and to the keeper of the [house of correction] at _____, in the said [county] of _____.

WHEREAS A.B. was this day charged before me, J.S., one of her Majesty's justices of the peace in and for the said [county] of _____, on the oath of C.D., of _____, farmer, and others, for that [*&c., stating shortly the offence*]: These are therefore to command you, the said constable of _____, to take the said A.B., and him safely to convey to the [house of correction] at _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said [house of correction], to receive the said A.B. into your custody in the said [house of correction], and there safely keep him until he shall be thence delivered by due course of law.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [county] aforesaid.

J.S. (L.S.)

(T. 2.)

Sect. 26.

Gaoler's Receipt to the Constable for the Prisoner, and Justice's Order thereon for Payment of the Constable's Expences in executing the Commitment.

I HEREBY certify, that I have received from W.T., constable of _____, the body of A.B., together with a warrant under the hand and seal of J.S., Esquire, one of her Majesty's justices of the peace for the [county] of _____; and that the said A.B. was [sober, or as the case may be,] at the time he was so delivered into my custody.

P.K.,
Keeper of the house of correction
[or common gaol] at _____

CONSTABLE'S expences :				£	s.	d.
For conveying the above <i>A.B.</i> from						
to	[<i>by railway</i>], at	per mile	-			
For conveying him to and from the railway station						
For subsistence of prisoner whilst in custody after						
commitment,	days, at	per day	-			
For his lodging,	nights, at	per night	-			
Constable,	days, at	per day	-			
[<i>One</i>] assistant [<i>if necessary</i>],	days, at		-			
per day	-	-	-			
Total				£		

To *R.W.*, Esquire, treasurer of the said [*county*] of

WHEREAS *W.T.*, constable of , in the county of , hath produced unto me, *J.P.*, one of her Majesty's justices of the peace in and for the said county of (wherein the offence herein-after mentioned is alleged to have been committed), the above receipt of *P.K.*, keeper of the [*house of correction*] at : And whereas, in pursuance of the statute in such case made and provided, I have ascertained that the sum which ought to be paid to the said *W.T.* for conveying the said *A.B.* from in the said county of to the said *house of correction* is , and that the reasonable expences of the said *W.T.* in returning will amount to the further sum of , making together the sum of : These are therefore to order you, as such treasurer of the said county of , to pay unto the said *W.T.* the said sum of , according to the form of the statute in such case made and provided, for which payment this order shall be your sufficient voucher and authority.

Given under my hand, this day of 184 .
J.P.

Received the day of 184 , of the treasurer of
the [*county*] of , the sum of , being the amount
of the above order.
£ .

CHAPTER XLIII.

AN ACT to facilitate the Performance of the Duties of Justices of the Peace out of Sessions, within England and Wales, with respect to summary Convictions and Orders.^[1]
[14th August 1848.]

[*Preamble.*]

Where in-
formation laid
that an offence

[1.] In all cases where an information shall be laid before one or more of her Majesty's justices of the peace for any county,

[¹ Short title, "The Summary Jurisdiction Act, 1848." See 55 & 56 Vict. c. 10.]

riding, division, liberty, city, borough, or place, within England or Wales, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such justice or justices for which he is liable by law, upon a summary conviction for the same before a justice or justices of the peace, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint shall be made to any such justice or justices upon which he or they have or shall have authority by law to make any order for the payment of money or otherwise, then and in every such case it shall be lawful for such justice or justices of the peace to issue his or their summons directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place before the same justice or justices, or before such other justice or justices of the same county, riding, division, liberty, city, borough, or place as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer, or other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him at his last or most usual place of abode; and the constable, peace officer, or person who shall serve the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of the said summons: Provided always, that nothing herein mentioned shall oblige any justice or justices of the peace to issue any such summons in any case where the application for any order of justices is by law to be made *ex parte*: Provided also, that no objection shall be taken or allowed to any information, complaint, or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, or summons and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint, as herein-after mentioned; but if any such variance shall appear to the justice or justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

punishable on summary conviction has been committed, &c. summons.

2. If the person so served with a summons as aforesaid shall not be and appear before the justice or justices at the time and place mentioned in such summons, and it shall be made to appear to such justice or justices, by oath or affirmation, that such summons was so served what shall be deemed by such justice or justices to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for such justice or justices, if he or they shall think fit, upon oath or

Provisions as to issue of warrant for accused.

affirmation being made before him or them substantiating the matter of such information or complaint to his or their satisfaction, to issue his or their warrant to apprehend the party so summoned, and to bring him before the same justice or justices, or before some other justice or justices of the peace in and for the same county, riding, division, liberty, city, borough, or place, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction the justice or justices before whom such information shall have been laid may, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information to his or their satisfaction, instead of issuing such summons as aforesaid, issue in the first instance his or their warrant for apprehending the person against whom such information shall have been so laid, and bringing him before the same justice or justices, or before some other justice or justices of the peace in and for the same county, riding, division, liberty, city, borough or place, to answer to the said information, and to be dealt with according to law; or if, where a summons shall be so issued as aforesaid, and upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned, such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justice or justices then present that such summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such justice or justices of the peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon, as fully and effectually, to all intents and purposes, as if such party had personally appeared before him or them in obedience to the said summons.

Form and
contents of
warrant.

3. Every such warrant to apprehend a defendant, that he may answer to any such information or complaint as aforesaid, shall be under the hand and seal or hands and seals of the justice or justices issuing the same, and may be directed either to any constable or other person by name, or generally to the constable of the parish or other district within which the same is to be executed, without naming him, or to such constable and all other constables within the county or other district within which the justice or justices issuing such warrant hath or have jurisdiction, or generally to all the constables within such last-mentioned county or district, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the constable or other person to whom it is directed to apprehend the said defendant, and to bring him before one or more justice or

justices of the peace (as the case may require) of the same county, riding, division, liberty, city, borough, or place, to answer to the said information or complaint, and to be further dealt with according to law; and it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such warrant may be executed by apprehending the defendant at any place within the county, riding, division, liberty, city, borough, or place within which the justices issuing the same shall have jurisdiction, or in case of fresh pursuit at any place in the next adjoining county or place, within seven miles of the border of such first-mentioned county, riding, division, liberty, city, borough, or place, without having such warrant backed as herein-after mentioned; and in all cases where such warrant shall be directed to all constables or peace officers within the county or other district within which the justice or justices issuing the same shall have jurisdiction, it shall be lawful for any constable, headborough, tithingman, borsholder, or other peace officer for any parish, township, hamlet, or place, situate within the limits of the jurisdiction for which such justice or justices shall have acted when he or they granted such warrant, to execute such warrant in like manner as if such warrant were directed specially to such constable by name, and notwithstanding that the place in which such warrant shall be executed shall not be within the parish, township, hamlet, or place for which he shall be such constable, headborough, tithingman, borsholder, or other peace officer; and such of the provisions and enactments contained in the Indictable Offences Act, 1848, as to the backing of any warrant, and the indorsement thereon by a justice of the peace or other officer, authorizing the person bringing such warrant, and all other persons to whom the same was originally directed, to execute the same within the jurisdiction of the justice or officer so making such indorsement, as are applicable to the provisions of this Act shall extend to all such warrants, and to all warrants of commitment issued under and by virtue of this Act, in as full and ample a manner as if the said several provisions and enactments were here repeated and made parts of this Act: Provided always, that no objection shall be taken or allowed to any such warrant to apprehend a defendant so issued upon any such information or complaint as aforesaid under or by virtue of this Act, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the informant or complainant, as herein-after mentioned; but if any such variance shall appear to the justice or justices present and acting at such hearing to be such that the party so apprehended under such warrant has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the said defendant to the

Execution of
warrant.

Certain provisions of
11 & 12 Vict.
c. 42. as to
backing of
warrants to
extend to war-
rants issued
under this Act.

Objections to
warrant for
want of form
or variance
from evidence.

house of correction or other prison, lock-up house, or place of security, or to such other custody as the said justice or justices shall think fit, or to discharge him upon his entering into a recognizance with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always, that in all cases where a defendant shall be discharged upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said justice who shall have taken the said recognizance, or any justice or justices who may then be there present, upon certifying upon the back of the said recognizance the nonappearance of the defendant, may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the said defendant.

Description of
property in
informations.

4. In any information or complaint, or the proceedings thereon, in which it shall be necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another or others, as the case may be; and whenever in any information or complaint, or the proceedings thereon, it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in manner aforesaid; and whenever in any such information or complaint, or the proceedings thereon, it shall be necessary to describe the ownership of any work or building made, maintained, or repaired at the expence of any county, riding, division, liberty, city, borough, or place, or of any materials for the making, altering, or repairing of the same, they may be therein described as the property of the inhabitants of such county, riding, division, liberty, city, borough, or place respectively; and all goods provided by parish officers for the use of the poor may in any such information or complaint, or the proceedings thereon, be described as the goods of the churchwardens and overseers of the poor of the parish, or of the overseers of the poor of the township or hamlet, or of the guardians of the poor of the union, to which the same belong, without naming any of them; and all materials and tools provided for the repair of highways at the expense of parishes or other districts in which such highways may be situate may be therein described as the property of the surveyor or surveyors of such highways respectively, without naming him or them; . . . and all property of the commissioners of sewers of any district may be described as the property of such commissioners, without naming them.

5. Every person who shall aid, abet, counsel, or procure the commission of any offence which is or hereafter shall be punishable on summary conviction shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction, and shall be liable on conviction to the same forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the county, riding, division, liberty, city, borough, or place where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling, or procuring may have been committed.

Aiders and abettors.

6.^[1] Such of the provisions and enactments in the Indictable Offences Act, 1848, whereby a justice of the peace for one county, riding, division, liberty, city, borough, or place may act for the same whilst residing or being in an adjoining county, riding, division, liberty, city, borough, or place, of which he is also a justice of the peace, or whereby a justice of the peace for any county at large, riding, division, or liberty may act as such within any city, town, or precinct next adjoining thereto or surrounded thereby, being a county of itself or otherwise having exclusive jurisdiction, as are applicable to the provisions of this Act, shall be deemed to be incorporated into this Act, and to extend to all acts required of or to be performed by justices of the peace under or by virtue of this Act, in as full and ample a manner as if the said provisions and enactments were here repeated and made parts of this Act.

Provisions of 11 & 12 Vict. c. 42. as to justices of one county, &c. acting for the same while in another, &c. to extend to this Act.

7. If it shall be made to appear to any justice of the peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence in behalf of the prosecutor or complainant or defendant, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such information or complaint, such justice may and is hereby required to issue his summons to such person under his hand and seal, requiring him to be and appear at a time and place mentioned in such summons before the said justice, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify what he shall know concerning the matter of the said information or complaint; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having been served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode, and that a reasonable sum

Powers of obtaining attendance of witnesses.

[¹ S. 35 of this Act does not apply to or control this section, 26 & 27 Vict. c. 77.]

was paid or tendered to him for his costs and expenses in that behalf,) it shall be lawful for the justice or justices before whom such person should have appeared to issue a warrant under his or their hands and seals to bring and have such person, at a time and place to be therein mentioned, before the justice who issued the said summons, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify as aforesaid, and which said warrant may, if necessary, be backed as herein-before is mentioned, in order to its being executed out of the jurisdiction of the justice who shall have issued the same; or if such justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence without being compelled so to do, then, instead of issuing such summons, it shall be lawful for him to issue his warrant in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last-mentioned justice or justices, either in obedience to the said summons or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or, having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any justice of the peace then present, and having there jurisdiction, may by warrant under his hand and seal commit the person so refusing to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

Complaints
not required to
be in writing.

8. In all cases of complaints upon which a justice or justices of the peace may make an order for the payment of money or otherwise it shall not be necessary that such complaint shall be in writing, unless it shall be required to be so by some particular Act of Parliament upon which such complaint shall be framed.

Variances
between
informations.

9. In all cases of informations for any offences or acts punishable upon summary conviction any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed shall not be deemed material, if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between such information and the evidence adduced in support thereof as to the parish or township in which the offence or act shall be alleged to have been committed shall not be deemed material, provided that the offence or act be proved to have been committed within the jurisdiction of the justice or justices by whom such information shall be heard and determined; and if any

such variance, or any variance in any other respect between such information and the evidence adduced in support thereof, shall appear to the justice or justices present and acting at the hearing to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the said defendant to the house of correction or other prison, lock-up house, or place of security, or to such other custody as the said justice or justices shall think fit, or to discharge him upon his entering into a recognizance, with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned.

10. Every such complaint upon which a justice or justices of the peace is or are or shall be authorized by law to make an order, and every information for any offence or act punishable upon summary conviction, unless some particular Act of Parliament shall otherwise require, may respectively be made or laid without any oath or affirmation being made of the truth thereof, except in cases of informations where the justice or justices receiving the same shall thereupon issue his or their warrant in the first instance to apprehend the defendant as aforesaid; and in every such case where the justice or justices shall issue his or their warrant in the first instance the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before any such warrant shall be issued; and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint; and every such information shall be for one offence only, and not for two or more offences; and every such complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf.

Complaints and informations not required to be on oath.

Complaints, &c. to be for one matter only.

11. In all cases where no time is already or shall hereafter be specially limited for making any such complaint or laying any such information in the Act or Acts of Parliament relating to each particular case, such complaint shall be made and such information shall be laid within six calendar months from the time when the matter of such complaint or information respectively arose.

Limitation of prosecution.

12. Every such complaint and information shall be heard, tried, determined, and adjudged by one or two or more justice or justices of the peace, as shall be directed by the Act of Parliament upon which such complaint or information shall be framed, or such other Act or Acts of Parliament as there may be in that behalf; [1 and if there be no such direction in any

Constitution of court and rights of parties to counsel, &c.

[1 Words within brackets rep. so far as relates to a case under the Summary Jurisdiction Acts or any future Acts, 47 & 48 Vict. c. 43. s. 4.]

such Act of Parliament, then such complaint or information may be heard, tried, determined, and adjudged by any one justice of the peace for the county, riding, division, liberty, city, borough, or place where the matter of such information shall have arisen ;] and the room or place in which such justice or justices shall sit to hear and try any such complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as the same can conveniently contain them ; and the party against whom such complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf ; and every complainant or informant in any such case shall be at liberty to conduct such complaint or information respectively and to have the witnesses examined and cross-examined by counsel or attorney on his behalf.

Procedure in
case of absence
of complainant
or defendant.

13. If at the day and place appointed in and by the summons aforesaid for hearing and determining such complaint or information the defendant against whom the same shall have been made or laid shall not appear when called, the constable or other person who shall have served him with the summons in that behalf shall then declare upon oath in what manner he served the said summons ; and if it appear to the satisfaction of any justice or justices that he duly served the said summons, in that case such justice or justices may proceed to hear and determine the case in the absence of such defendant, or the said justice or justices, upon the nonappearance of such defendant as aforesaid, may, if he or they think fit, issue his or their warrant in manner herein-before directed, and shall adjourn the hearing of the said complaint or information until the said defendant shall be apprehended ; and when such defendant shall afterwards be apprehended under such warrant he shall be brought before the same justice or justices, or some other justice or justices of the same county, riding, division, liberty, city, borough, or place, who shall thereupon, either by his or their warrant commit such defendant to the house of correction or other prison, lock-up house, or place of security, or, if he or they think fit, verbally to the custody of the constable or other person who shall have apprehended him, or to such other safe custody as he or they shall deem fit, and order the said defendant to be brought up at a certain time and place before such justice or justices of the peace as shall then be there, of which said order the complainant or informant shall have due notice ; or if upon the day and at the place so appointed as aforesaid such defendant shall attend voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the said justice or justices by virtue of any warrant, then, if the complainant or informant, having had such notice as aforesaid, do not appear, by himself, his counsel or attorney, the said justice or justices shall dismiss such complaint

or information, unless for some reason he or they shall think proper to adjourn the hearing of the same unto some other day, upon such terms as he or they shall think fit, in which case such justice or justices may commit the defendant in the meantime to the house of correction or other prison, lock-up house, or place of security, or to such other custody as such justice or justices shall think fit, or may discharge him upon his entering into a recognizance with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned; . . . but if both parties appear, either personally or by their respective counsel or attorneys, before the justice or justices who are to hear and determine such complaint or information, then the said justice or justices shall proceed to hear and determine the same.

14. Where such defendant shall be present at such hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he have any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be; and if he thereupon admit the truth of such information or complaint, and show no cause or no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, then the justice or justices present at the said hearing shall convict him or make an order against him accordingly; but if he do not admit the truth of such information or complaint as aforesaid, then the said justice or justices shall proceed to hear the prosecutor or complainant, and such witnesses as he may examine and such other evidence as he may adduce, in support of his information or complaint respectively, and also to hear the defendant and such witnesses as he may examine and such other evidence as he may adduce in his defence, and also to hear such witnesses as the prosecutor or complainant may examine in reply, if such defendant shall have examined any witnesses or given any evidence other than as to his the defendant's general character; but the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply as aforesaid; and the said justice or justices, having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter, and determine the same, and shall convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be; and if he or they convict or make an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction or order shall afterwards be drawn up by the said justice or justices in proper form, under his or their hand and seal or hands and seals, and he or

Proceedings at
the hearing.

they shall cause the same to be lodged with the clerk of the peace, to be by him filed among the records of the general quarter sessions of the peace; or if the said justice or justices shall dismiss such information or complaint, it shall be lawful for such justice or justices, if he or they shall think fit, being required so to do, to make an order of dismissal of the same, and shall give the defendant in that behalf a certificate thereof, which said certificate afterwards, upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively against the same party: Provided always, that if the information or complaint in any such case shall negative any exemption, exception, proviso, or condition in the statute on which the same shall be framed, it shall not be necessary for the prosecutor or complainant in that behalf to prove such negative, but the defendant may prove the affirmative thereof in his defence, if he would have advantage of the same.

Examination
of witnesses
upon oath.

15. . . . every witness at any such hearing as aforesaid shall be examined upon oath or affirmation, and the justice or justices before whom any such witness shall appear for the purpose of being so examined shall have full power and authority to administer to every such witness the usual oath or affirmation.

Adjournment
of hearing.

16. Before or during such hearing of any such information or complaint it shall be lawful for any one justice, or for the justices, in their discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or their respective attornies or agents then present, and in the meantime the said justice or justice may suffer the defendant to go at large, or may commit him to the common gaol or house of correction, or other prison, lock-up house, or place of security, in the county, riding, division, liberty, city, borough, or place for which such justice or justices shall be then acting, or to such other safe custody as the said justice or justices shall think fit, or may discharge such defendant upon his entering into a recognizance with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned; and if at the time or place to which such hearing or further hearing shall be so adjourned either or both of the parties shall not appear personally, or by his or their counsel or attornies respectively, before the said justice or justices, or such other justice or justices as shall then be there, it shall be lawful for the justice or justices then there present to proceed to such hearing or further hearing as if such party or parties were present; or if the prosecutor or complainant shall not appear, the said justice or justices may dismiss such information or complaint, with or without costs, as to such justices shall seem fit . . .

17[¹]. In all cases of conviction where no particular form of such conviction is or shall be given by the statute creating the offence or regulating the prosecution for the same, and in all cases of conviction upon statutes hitherto passed, whether any particular form of conviction have been therein given or not, it shall be lawful for the justice or justices who shall so convict to draw up his or their conviction on parchment or on paper in such one of the forms of conviction in the schedule to this Act contained as shall be applicable to such case, or to the like effect; and where an order shall be made and no particular form of order is or shall be given by the statute giving authority to make such order, and, in all cases of orders to be made under the authority of any statutes hitherto passed, whether any particular form of order shall therein be given or not, it shall be lawful for the justice or justices by whom such order is to be made to draw up the same in such one of the forms of orders in the schedule to this Act contained as may be applicable to such case, or to the like effect; and in all cases where by any Act of Parliament authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying any order of a justice or justices, the defendant shall be served with a copy of the minute of such order before any warrant of commitment or of distress shall issue in that behalf, and such order or minute shall not form any part of such warrant of commitment or of distress.

Form of convictions and orders.

Defendant to be served with minute of order before issue of warrant of commitment or distress.

18. In all cases of summary conviction or of orders made by a justice or justices of the peace it shall be lawful for the justice or justices making the same, in his or their discretion, to award and order in and by such conviction or order that the defendant shall pay to the prosecutor or complainant respectively such costs as to such justice or justices shall seem just and reasonable in that behalf; and in cases where such justice or justices, instead of convicting or making an order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them, in his or their discretion, in and by his or their order of dismissal to award and order that the prosecutor or complainant respectively shall pay to the defendant such costs as to such justice or justices shall seem just and reasonable; and the sums so allowed for costs shall in all cases be specified in such conviction or order or order of dismissal aforesaid, and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such conviction or order is to be recoverable; and in cases where there is no such penalty or sum to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and

Award of costs to complainant or defendant.

[¹ So much of s. 17 as specifies any form of conviction or order for which another form is provided by a Rule under the Summary Jurisdiction Acts, rep. 47 & 48 Vict. c. 43. s. 4.]

in default of such distress by imprisonment, with or without hard labour, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

Warrant of distress for recovery of penalty or sum of money.

19. Where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, and by the statute authorizing such conviction or order such penalty, compensation, or sum of money is to be levied upon the goods and chattels of the defendant by distress and sale thereof, and also in cases where by the statute in that behalf no mode of raising or levying such penalty, compensation, or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the justice or justices making such conviction or order, or for any justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of distress for the purpose of levying the same, which said warrant of distress shall be in writing under the hand and seal of the justice making the same; and if after delivery of such warrant of distress to the constable or constables to whom the same shall have been directed to be executed sufficient distress shall not be found within the limits of the jurisdiction of the justice granting such warrant, then, upon proof alone being made on oath of the handwriting of the justice granting such warrant before any justice of any other county or place, such justice of such other county or place shall thereupon make an endorsement on such warrant, signed with his hand, authorizing the execution of such warrant within the limits of his jurisdiction; by virtue of which said warrant and endorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such warrant, or by the person or persons to whom such warrant was originally directed, or by any constable or other peace officer of such last-mentioned county or place, by distress and sale of the goods and chattels of the defendant in such other county or place: . . .

Where warrant of distress issued, defendant may be set at large or detained in default of security.

20. In all cases where a justice of the peace shall issue any such warrant of distress it shall be lawful for him to suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, to order the defendant to be kept and detained in safe custody until return shall be made to such warrant of distress, unless such defendant shall give sufficient security, by recognizance or otherwise, to the satisfaction of such justice, for his appearance before him at the time and place appointed for the return of such warrant of distress, or before such other justice or justices for the same county, riding, division, liberty, city, borough, or place as may then be there: . . .

In default of distress defendant may be committed.

21. If at the time and place appointed for the return of any such warrant of distress the constable who shall have had the execution of the same shall return that he could find no goods or chattels, or no sufficient goods or chattels, whereon he could

levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the justice of the peace before whom the same shall be returned to issue his warrant of commitment under his hand and seal, directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such constable to convey such defendant to the house of correction, or if there be no house of correction then to the common gaol of the county, riding, division, liberty, city, borough, or place for which such justice shall then be acting, and there to deliver him to the keeper thereof, and requiring such keeper to receive the defendant into such house of correction or gaol, and there to imprison him, ~~or to imprison him and keep him to hard labour,~~ in such manner and for such time as shall have been directed and appointed by the statute on which the conviction or order mentioned in such warrant of distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice shall think fit so to order, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

22. And whereas by some Acts of Parliament justices of the peace are authorized to issue warrants of distress to levy penalties or other sums recovered before them by distress and sale of the offender's goods, but no further remedy is thereby provided in case no sufficient distress be found whereon to levy such penalties: Be it therefore enacted, that in all such cases, and in all cases of convictions or orders where the statute on which the same are respectively founded provides no remedy in case it shall be returned to a warrant of distress thereon that no sufficient goods of the party against whom such warrant shall have been issued can be found, it shall nevertheless be lawful for the justice to whom such return is made, or to any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, if he or they shall think fit, by his warrant as aforesaid to commit the defendant to the house of correction or common gaol as aforesaid for any term not exceeding three calendar months, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and of the commitment ~~and conveying of the defendant to prison,~~ (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Where the statute provides no remedy in default of distress defendant may be committed.

23. In all cases where the statute by virtue of which a conviction for a penalty or compensation or an order for the payment of money is made makes no provision for such penalty or compensation or sum being levied by distress, but directs that if the same be not paid forthwith, or within a certain time therein mentioned, or to be mentioned in such conviction or order, the defendant shall be imprisoned, ~~or imprisoned and~~

Provision where the statute does not direct levy by distress, but directs commitment in

case of non-payment.

~~kept to hard labour~~, for a certain time, unless such penalty, compensation, or sum shall be sooner paid, in every such case such penalty, compensation, or sum shall not be levied by distress; but if the defendant do not pay the same, together with costs, if awarded, forthwith, or at the time specified in such conviction or order for the payment of the same; it shall be lawful for the justice or justices making such conviction or order, or for any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of commitment under his or their hand and seal or hands and seals, requiring the constable or constables to whom the same shall be directed to take and convey such defendant to the house of correction or common gaol for the county, riding, division, liberty, city, borough, or place aforesaid, as the case may be, and there to deliver him to the keeper thereof, and requiring such keeper to receive such defendant into such house of correction or gaol, and there to imprison him, ~~or to imprison him and keep him to hard labour, as the case may be~~, for such time as the statute on which such conviction or order is founded as aforesaid shall direct, unless the sum or sums adjudged to be paid, and also the costs and charges of taking and conveying the defendant to prison, if such justice or justices shall think fit so to order, shall be sooner paid.

Provision where the conviction orders imprisonment and not payment of a penalty, or where order is not for payment of money, but that some act shall be done, and for imprisonment in case of default.

24. Where a conviction does not order the payment of any penalty, but that the defendant be imprisoned, ~~or imprisoned and kept to hard labour~~, for his offence, or where an order is not for the payment of money, but for the doing of some other act and directs that in case of the defendant's neglect or refusal to do such act he shall be imprisoned, ~~or imprisoned and kept to hard labour~~, and the defendant neglects or refuses to do such act, in every such case it shall be lawful for such justice or justices making such conviction or order, or for some other justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of commitment under his or their hand and seal or hands and seals, and requiring the constable or constables to whom the same shall be directed to take and convey such defendant to the house of correction or common gaol for the same county, riding, division, liberty, city, borough, or place, as the case may be, and there to deliver him to the keeper thereof, and requiring such keeper to receive such defendant into such house of correction or gaol, and there to imprison him, ~~or to imprison him and keep him to hard labour, as the case may be~~, for such time as the statute on which such conviction or order is founded as aforesaid shall direct; and in all such cases, where by such conviction or order any sum for costs shall be adjudged to be paid by the defendant to the prosecutor or complainant, such sum may, if the justice or justices shall think fit, be levied by warrant of distress in manner aforesaid, and in default of distress the defendant may, if such justice or justices shall think fit, be committed to the same house

Levy of distress for costs.

of correction or common gaol in manner aforesaid, there to be imprisoned for any time not exceeding one calendar month, to commence at the termination of the imprisonment he shall then be undergoing, unless such sum for costs, and all costs and charges of the said distress, and also the costs and charges of the commitment and conveying of the defendant to prison; if such justice or justices shall think fit so to order, shall be sooner paid.

25. Where a justice or justices of the peace shall upon any such information or complaint as aforesaid adjudge the defendant to be imprisoned, and such defendant shall then be in prison undergoing imprisonment upon a conviction for any other offence, the warrant of commitment for such subsequent offence shall in every such case be forthwith delivered to the gaoler to whom the same shall be directed: and it shall be lawful for the justice or justices issuing the same, if he or they shall think fit, to award and order therein and thereby that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such defendant shall have been previously adjudged or sentenced.

Provision where defendant already in prison for another offence.

26. Where any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the order for dismissal may be levied by distress on the goods and chattels of the prosecutor or complainant in manner aforesaid: and in default of distress or payment such prosecutor or complainant may be committed to the house of correction or common gaol in manner aforesaid, for any time not exceeding one calendar month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such prosecutor or complainant to prison, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Where costs recoverable from prosecutor.

5 L.R. 12.54

27. After an appeal against any such conviction or order as aforesaid shall be decided, if the same shall be decided in favour of the respondents, the justice or justices who made such conviction or order, or any other justice of the peace of the same county, riding, division, liberty, city, borough, or place, may issue such warrant of distress or commitment as aforesaid for execution of the same, as if no such appeal had been brought; and if upon any such appeal the court of quarter sessions shall order either party to pay costs, such order shall direct such costs to be paid to the clerk of the peace of such court, to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid; and if the same shall not be paid within the time so limited, and the party ordered to pay the same shall not be bound by any recognizance conditioned to pay such costs, such clerk of the peace or his deputy, upon application of the party entitled to such costs, or of any person on his behalf, and on payment of a fee of one shilling, shall grant to the party so applying a certificate that such costs have not been paid; and

Execution after decision of appeal.

upon production of such certificate to any justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, it shall be lawful for him or them to enforce the payment of such costs by warrant of distress in manner aforesaid, and in default of distress he or they may commit the party against whom such warrant shall have issued, in manner herein-before mentioned, for any time not exceeding three calendar months, unless the amount of such costs, and all costs and charges of the distress, and also the costs of the commitment ~~and conveying of the said party to prison~~, if such justice or justices shall think fit so to order, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Payment of
penalty.

28. In all cases where any person against whom a warrant of distress shall issue as aforesaid shall pay or tender to the constable having the execution of the same the sum or sums in such warrant mentioned, together with the amount of the expences of such distress up to the time of such payment or tender, such constable shall cease to execute the same; and in all cases in which any person shall be imprisoned as aforesaid for nonpayment of any penalty or other sum he may pay or cause to be paid to the keeper of the prison in which he shall be so imprisoned the sum in the warrant of commitment mentioned, together with the amount of the costs, charges, and expences (if any) therein also mentioned, and the said keeper shall receive the same, and shall thereupon discharge such person, if he be in his custody for no other matter.

Acts which
may be done by
one justice.

29. In all cases of summary proceedings before a justice or justices of the peace out of sessions upon any information or complaint as aforesaid it shall be lawful for one justice to receive such information or complaint, and to grant a summons or warrant thereon, and to issue his summons or warrant to compel the attendance of any witnesses, and to do all other necessary acts and matters preliminary to the hearing, even in cases where by the statute in that behalf such information or complaint must be heard and determined by two or more justices; and after the case shall have been so heard and determined one justice may issue all warrants of distress or commitment thereon; and it shall not be necessary that the justice who so acts before or after such hearing shall be the justice or one of the justices by whom the said case shall be heard and determined: Provided always, that in all cases where by statute it is or shall be required that any such information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices must be present and acting together during the whole of the hearing and determination of the case.

Fees of clerks
of the peace.

30. The fees to which any clerk of the peace . . . shall be entitled shall be ascertained, appointed, and regulated in

manner following; (that is to say,) the justices of the peace at their quarter sessions for the several counties, ridings, divisions of counties, and liberties, throughout England and Wales, and the council or other governing body of every borough in England and Wales, shall from time to time, as they shall see fit respectively, make tables of the fees which in their opinion should be paid to the clerks of the peace . . . within their several jurisdictions, and which said tables respectively, being signed by the chairman of every such court of quarter sessions, or by the mayor or other head officer of any such borough respectively, shall be laid before her Majesty's principal Secretary of State; and it shall be lawful for such Secretary of State, if he thinks fit, to alter such table or tables of fees, and to subscribe a certificate or declaration that such fees are proper to be demanded and received by the several clerks of the peace, . . . throughout England and Wales; and such Secretary of State shall cause copies of such table or set of tables of fees to be transmitted to the several clerks of the peace throughout England and Wales, . . . and if after such copy shall be received by such clerks or clerk he or they shall demand or receive any other or greater fee or gratuity for any business or act transacted or done by him as such clerk than such as is set down in such table or set of tables, he shall forfeit for every such demand or receipt the sum of twenty pounds, to be recovered by action of debt in any of the superior courts of law at Westminster, by any person who will sue for the same: Provided always, that until such table or set of tables shall be framed and confirmed and distributed as aforesaid it shall be lawful for such clerk or clerks to demand and receive such fees as they are now, by any rule or regulation of a court of quarter sessions, or otherwise, authorized to demand and receive.

Penalty on clerks taking other fees than those allowed.

31. In every warrant of distress to be issued as aforesaid the constable or other person to whom the same shall be directed shall be thereby ordered to pay the amount of the sum to be levied thereunder unto the clerk of the division in which the justice or justices issuing such warrant shall usually act; and if any person convicted of any penalty, or ordered by a justice or justices of the peace to pay any sum of money, shall pay the same to any constable or other person, such constable or other person shall forthwith pay the same to such clerk; and if any person committed to prison upon any conviction or order as aforesaid for nonpayment of any penalty, or of any sum thereby ordered to be paid, shall desire to pay the same and costs before the expiration of the time for which he shall be so ordered to be imprisoned by the warrant for his commitment, he shall pay the same to the gaoler or keeper of the prison in which he shall be so imprisoned, and such gaoler or keeper shall forthwith pay the same to the said clerk; and all sums so received by the said clerk shall forthwith be paid by him to the party or parties to whom the same respectively are to be paid, according to the

Regulations as to payment, &c. of penalties, &c.

Accounts and
returns.

directions of the statute on which the information or complaint in that behalf shall have been framed; and if such statute shall contain no such directions for the payment thereof to any person or persons, then such clerk shall pay the same to the treasurer of the county, riding, division, liberty, city, borough, or place for which such justice or justices shall have acted, and for which such treasurer shall give him a receipt without stamp; and every such clerk, and every such gaoler or keeper of a prison, shall keep a true and exact account of all such monies received by him, of whom and when received, and to whom and when paid, . . . and shall once in every month render a fair copy of every such account unto the justices who shall be assembled at the petty sessions for the division in which such justice or justices aforesaid shall usually act, to be holden on or next after the first day of every month, under the penalty of forty shillings, to be recovered by distress in manner aforesaid; and the said clerk shall send or deliver every return so made by him as aforesaid to the clerk of the peace for the county, riding, division, liberty, city, borough, or place within which such division shall be situate, at such times as the court of quarter sessions for the same shall order in that behalf.

[S. 32 *rep.* 54 & 55 *Vict. c. 67. (S.L.R.)*]

Metropolitan
police magis-
trates, and
stipendiary
magistrates
may act alone.

33. Any one of the magistrates appointed or hereafter to be appointed to act at any of the police courts of the Metropolis, and sitting at a police court within the metropolitan police district, and every stipendiary magistrate appointed or to be appointed for any other city, town, liberty, borough, or place, and sitting at a police court or other place appointed in that behalf, shall have full power to do alone whatsoever is authorized by this Act to be done by any one or more justice or justices of the peace; and the several forms hereinafter mentioned may be varied, so far as it may be necessary to render them applicable to the police courts aforesaid, or to the court or other place of sitting of such stipendiary magistrate; and nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in the Metropolitan Police Act, 1829, or in the Metropolitan Police Act, 1839, or in the Metropolitan Police Courts Act, 1839, or in an Act passed in the fourth year of the reign of her present Majesty, intituled "An Act for better defining the powers of justices within the metropolitan police district."

10 Geo. 4.
c. 44.
2 & 3 *Vict.*
c. 47.
2 & 3 *Vict.*
c. 71.
3 & 4 *Vict.*
c. 84.

Lord Mayor, or
alderman of
London, may
act alone.

34. It shall be lawful for the Lord Mayor of the City of London, or for any alderman of the said city, for the time being, sitting at the Mansion House or Guildhall justice rooms in the said city, to do alone any act, at either of the said justice rooms, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice; and nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments

contained in an Act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the police in the city of London."

35.[¹] Nothing in this Act shall extend or be construed to extend to any warrant or order for the removal of any poor person who is or shall become chargeable to any parish, township, or place; nor to any complaints or orders made with respect to lunatics, or the expenses incurred for the lodging, maintenance, medicine, clothing, or care of any lunatic or insane person; . . . nor shall anything in this Act extend or be construed to extend to any complaints, orders, or warrants in matters of bastardy made against the putative father of any bastard child, save and except such of the provisions aforesaid as relate to the backing of warrants for compelling the appearance of such putative father or warrants of distress, or to the levying of sums ordered to be paid, or to the imprisonment of a defendant for nonpayment of the same;

2 & 3 Vict.
cap. xciv.

To what
proceeding this
Act shall not
extend.

[S. 36 *rep.* 38 & 39 Vict. c. 66. (S.L.R.)]

37. The town of Berwick-upon-Tweed shall be deemed to be within England for all the purposes of this Act; but nothing in this Act shall extend or be construed to extend to Scotland or Ireland, or to the Isles of Man, Jersey, Guernsey, Alderney, or Sark, save and except the several provisions respecting the backing of warrants contained in the Indictable Offences Act, 1848, and incorporated into this Act as aforesaid.

Extent of Act
and saving.

11 & 12 Vict.
c. 42.

[Ss. 38, 39 *rep.* 38 & 39 Vict. c. 66. (S.L.R.) *Sched. rep.* 54 & 55 Vict. c. 67. (S.L.R.); see *Forms substituted by Summary Jurisdiction Rules*, 1886.]

CHAPTER XLIV.

AN ACT to protect Justices of the Peace from vexatious Actions for Acts done by them in execution of their Office.^[2]

[14th August 1848.]

[Preamble.]

[1.] Every action hereafter to be brought against any justice of the peace for any act done by him in the execution of his duty as such justice, with respect to any matter within his jurisdiction as such justice, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause; and if at the trial of any such action, upon the general issue being pleaded, the plaintiff shall fail to prove such

An action
against a
justice for an
act within his
jurisdiction
shall be on the
case, as for a
tort.

[¹ See note to s. 6.]

[² Short title, "The Justices Protection Act, 1848." See 55 & 56 Vict. c. 10.]

allegation, he shall be non-suit, or a verdict shall be given for the defendant.

Acts of justices for which action may be maintained.

2. For any act done by a justice of the peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by such justice in any such matter, may maintain an action against such justice in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration that the act complained of was done maliciously, and without reasonable and probable cause: Provided nevertheless, that no such action shall be brought for any thing done under such conviction or order until after such conviction shall have been quashed, either upon appeal, or upon application to her Majesty's Court of Queen's Bench; nor shall any such action be brought for any thing done under any such warrant which shall have been issued by such justice to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last-mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence, nevertheless if a summons were issued previously to such warrant, and such summons were served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such summons, in such case no such action shall be maintained against such justice for any thing done under such warrant.

Provision where one justice makes a conviction or order, and another grants a warrant.

3. Where a conviction or order shall be made by one or more justice or justices of the peace, and a warrant of distress or of commitment shall be granted thereon by some other justice of the peace *bonâ fide* and without collusion, no action shall be brought against the justice who so granted such warrant by reason of any defect in such conviction or order, or for any want of jurisdiction in the justice or justices who made the same, but the action (if any) shall be brought against the justice or justices who made such conviction or order.

Provision where distress warrant issued for poor rate.

4. Where any poor rate shall be made, allowed, and published, and a warrant of distress shall issue against any person named and rated therein, no action shall be brought against the justice or justices who shall have granted such warrant by reason of any irregularity or defect in the said rate, or by reason of such person not being liable to be rated therein; and in all cases where a discretionary power shall be given to a justice of the peace by any Act or Acts of Parliament, no action shall be brought against such justice for or by reason of the manner in

Exercise of discretionary power by justice.

which he shall have exercised his discretion in the execution of any such power.

5. [*Recital.*] In all cases where a justice or justices of the peace shall refuse to do any act relating to the duties of his or their office as such justice or justices, it shall be lawful for the party requiring such act to be done to apply to her Majesty's Court of Queen's Bench, upon an affidavit of the facts, for a rule calling upon such justice or justices, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule good cause shall not be shown against it, the said court may make the same absolute, with or without or upon payment of costs, as to them shall seem meet; and the said justice or justices, upon being served with such rule absolute, shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against such justice or justices for having obeyed such rule, and done such act so thereby required as aforesaid.

Where justice acts under order of Queen's Bench.

6. In all cases where a warrant of distress or warrant of commitment shall be granted by a justice of the peace upon any conviction or order which, either before or after the granting of such warrant, shall have been or shall be confirmed upon appeal, no action shall be brought against such justice who so granted such warrant for any thing which may have been done under the same by reason of any defect in such conviction or order.

Acts done under warrant when conviction is confirmed on appeal.

7. In all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action shall be brought it shall be lawful for a judge of the court in which the same shall be brought, upon application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him shall seem meet.

Where action is prohibited proceedings may be set aside.

[*Ss. 8, 9 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

10. No action shall be brought in any county court against a justice of the peace for anything done by him in the execution of his office, if such justice shall object thereto; and if within six days after being served with a summons in any such action such justice, or his attorney or agent, shall give a written notice to the plaintiff in such action that he objects to being sued in such county court for such cause of action, all proceedings afterwards had in such county court in any such action shall be null and void.

Action not to be brought in county court if defendant objects.

[*Ss. 11, 12 rep. 56 & 57 Vict. c. 61. s. 2.*]

13. In all cases where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek

Damages.

to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two-pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay.

[S. 14 rep. 56 & 57 Vict. c. 61. s. 2.]

Extent of Act.

15. This Act shall extend only to England and Wales and the town of Berwick-upon-Tweed.

[Ss. 16, 17 (repealing so much of 7 Jas. 1. c. 5; 21 Jas. 1. c. 12; 14 Geo. 2 c. 44. as relates to actions against justices of the peace, and also 43 Gen. 3. c. 141, and all other Acts or parts of Acts inconsistent with the provisions of this Act) rep. 38 & 39 Vict. c. 66. (S.L.R.)

Application of Act to cases of protection under repealed Acts.

18. This Act shall apply for the protection of all persons for anything done in the execution of their office, in all cases in which, by the provisions of any Act or Acts of Parliament, the several statutes or parts of statutes herein-before mentioned and by this Act repealed would have been applicable if this Act had had not passed.

[S. 19 rep. 38 & 39 Vict. c. 66. (S.L.R.)

CHAPTER XLVI.

AN ACT for the Removal of Defects in the Administration of Criminal Justice. [14th August 1848.]

[Preamble]

[Ss. 1-3 rep. 24 & 25 Vict. c. 95. s. 1.]

Amendment of indictment in cases of variance.

4. [Recital.] It shall and may be lawful for any court of oyer and terminer and general gaol delivery, if such court shall see fit so to do, to cause the indictment or information for any offence whatever, when any variance or variances shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof in the indictment or information whereon the trial is pending, to be forthwith amended in such particular or particulars by some officer of the court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance or variances had appeared.

Extent of Act.

5. Nothing in this Act contained shall extend to Scotland.

[S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XLVII.

AN ACT for the Protection and Relief of the destitute Poor
evicted from their Dwellings in Ireland.

[14th August 1848.]

[*Preamble.*]

[1.] No writ of habere facias possessionem, decree, order, or other process, for the delivering up or taking possession of land in Ireland, shall be executed on any Christmas Day or Good Friday, nor on any day within the time after the commencement of two hours next before sunset, and before sunrise, or six o'clock in the morning, whichever shall be latest.

Excluded days and hours in cases of execution of writs.

2. Not less than forty-eight hours before any such writ, decree, order, or process as aforesaid, for delivering up or taking possession of land on which there shall be any inhabited dwelling house, or building used as a dwelling house, shall be executed in any county in Ireland, the landowner or other person by whom or on whose behalf such writ, decree, order, or other process as aforesaid shall have been sued out, or his agent, shall give notice in writing to the relieving officer of the electoral division in which such land shall be situate, and such notice shall set forth the parish or barony, electoral division, and townland, in which the land of which possession is so to be delivered up or taken is situate.

Notice of eviction to be given to relieving officer.

3. Every notice to be given to any relieving officer under this Act shall be given by delivering the same to such relieving officer, or by leaving the same, directed to such relieving officer, at his dwelling house or office, or by letter sent by the post, directed to the relieving officer at such dwelling house or office; and in case the same shall be so sent by the post, such notice shall be delivered directed, open and in duplicate, to the postmaster of any post office, and the postmaster shall compare the notice and the duplicate, and on being satisfied that they are alike shall forward one of them to its address by the post, and shall return the other to the party bringing the same, stamped with the stamp of the said post office; and such postmaster shall be entitled to have and receive from the person delivering such letter the rate of postage payable for the same, and the sum of sixpence and no more; and such stamped duplicate shall be evidence of the notice having been given on the day on which such notice would in the ordinary course of post have been delivered at such dwelling house or office of the relieving officer.

Service of notice.

4. It shall be lawful for persons who shall become destitute by reason of their being dispossessed or removed of or from any dwelling house, or other building used as a dwelling house, by or under such writ, decree, order, or other process as afore-

Temporary relief to persons dispossessed.

said, to apply for relief to the relieving officer of the electoral division in which the said land or house shall be situate; and such relieving officer shall, on the receipt of such application, take order for providing shelter for any such applicants, being destitute persons, by an order of admission into the workhouse of the union, if there be room therein, by conveying any such destitute poor person thereto, if necessary, or by affording such destitute poor persons temporary relief in food, ^{or} lodging, ~~medicine, or medical attendance~~, until the next ordinary meeting of the board of guardians, at which meeting he shall report the case, and the nature and cost of the relief so afforded, in such form and manner as the Poor Law Commissioners shall prescribe, and after such report shall give no further relief, otherwise than by direction of the board of guardians, in the case so reported; and the guardians shall furnish the relieving officer with funds for affording such relief, in the same manner and subject to the same rules and conditions as are or may be provided for all other relief granted by the relieving officer under and by virtue of the Poor Relief (Ireland) Act, 1847; and it shall be lawful for such guardians, if they shall think fit, to provide every such destitute poor person with relief to the same extent as destitute poor persons permanently disabled from labour, by reason of old age, infirmity, or bodily or mental defect, are by law entitled to relief in Ireland: Provided always, that it shall not be lawful for the guardians to relieve such destitute poor persons after the period of one calendar month from the date of such temporary relief as aforesaid being afforded, except in the manner by which such poor persons could be relieved under the Acts now in force for the relief of the destitute poor in Ireland.

948 C 3 (N.1) Sch 10
Pt I.
10 & 11 Vict.
c. 31, s. 8.

Notice of
eviction to
be given to
occupier of a
dwelling.

5. In case there shall be upon any land of which possession is to be delivered up or taken under such writ, decree, order, or process as aforesaid, any inhabited dwelling house, or building used as a dwelling house, the occupier of which shall not have received notice as a tenant for the determination of his tenancy, or shall not have been served with notice of the action, civil bill, or other proceeding, in which such writ, decree, order or process shall have been sued out, such occupier of every such inhabited dwelling house or building as aforesaid shall be served with notice in writing of the intention to execute such writ, decree, order, or process, not less than seven days before the same shall be executed, and such notice may be served by delivering the same to such occupier, or by leaving such notice at such dwelling house or other building, or affixing the same to some conspicuous part of such dwelling house or other building: Provided always, that it shall not be necessary to name in such notice as aforesaid the occupier to or for whom such notice shall be delivered, left, or affixed, or to serve any such notice on any occupier who shall have become such occupier less than twenty-one days before the execution of such writ, decree, order, or other process.

6. In case the landlord or other person by whom or on whose behalf such writ, decree, order, or other process shall have been sued out shall neglect or omit to serve the notice required by this Act to be served on the relieving officer, he shall forfeit and pay the sum of twenty pounds to the guardians of the union in which the land shall be situate; and such sum may be recovered by civil bill or otherwise, and shall be applied in aid of the rates of the electoral division in which such land shall be situate, and, in case such landlord or other person shall be resident out of Ireland, may be recovered from him by action at law; and the service of process in such action on the attorney or agent by whom such writ, decree, order, or other process may have been sued out shall be good service on such landlord or other person as aforesaid.

Penalty on landlord, &c. neglecting to serve notice on relieving officer.

7. Whosoever, with intent to dispossess any person actually dwelling in a house or other building used as a dwelling-house (whether such person shall be so dwelling under a continuing tenancy or holding over after the expiration thereof, or otherwise), shall, except so far as may be necessary to enable the sheriff or his officer to effect an entrance thereto, pull down, demolish, or unroof, in whole or in part, or cause to be pulled down, demolished, or unroofed, in whole or in part, such dwelling house or building used as a dwelling house, whilst such person or any of his family shall be actually within the same, shall be guilty of a misdemeanor.

The unroofing, &c. of dwellings, for the purpose of expelling the occupier, to be a misdemeanor.

8. All the provisions in this Act contained shall apply and shall be construed to apply to all the estates and possessions of the crown in Ireland, and to all proceedings taken on behalf of her Majesty, under the authority of the Treasury, or the Commissioners of Woods, or the Clerk of the Quit Rents, for recovering the possession of any part of such crown estates, whether by writ of intrusion, ejectment, or otherwise, in as full and ample a manner and subject to all the enactments herein contained and made applicable in respect to all private parties recovering the possession or proceeding to recover the possession of other lands not being the property of the crown.

Provisions of this Act to apply to estates and possessions of the crown in Ireland, &c.

9. In the construction of this Act, where the subject or construction shall not be repugnant, words importing the singular number shall extend to and include the plural, and words importing the masculine gender shall include females as well as males.

Interpretation.

CHAPTER LV.

AN ACT for consolidating the Offices of Paymasters of Exchequer Bills and Paymaster of Civil Services with the Office of Paymaster General, and for making other Provisions in regard to the consolidated Offices. [14th August 1848.]

[*Preamble recites* 48 *Geo. 3. c. 1* ; 4 & 5 *Will. 4. c. 15* ; 5 & 6 *Will. 4. c. 35*.]

[*S. 1 (authorizing Treasury to abolish offices of Paymasters of Exchequer Bills and of Civil Services and to make provision for the discharge of duties thereof by the Paymaster General) rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

Duties of abolished offices transferred to Paymaster General.

2. All the interests, titles, powers, authorities, privileges, and duties now vested in or either by law or usage exercised by the said offices so abolished respectively shall be and the same are hereby declared to be transferred to and vested in and may be exercised by the said Paymaster General, or by such person or persons as may be duly authorized from time to time to perform the duties of such Paymaster General, in as full and ample a manner to all intents and purposes as they were vested in and might have been exercised by the Paymasters of Exchequer Bills and Paymaster of Civil Services respectively.

Letters of attorney to continue in force.

3. No letter of attorney or other authority for the payment or receipt of all or any part of any salary, allowance, incident, or other charge now payable by the said Paymaster of Civil Services shall be invalidated or revoked by the abolition of the office of such paymaster, but every such letter of attorney and other authority shall continue in force and may be acted upon in relation to and by the said Paymaster General in the same manner as the same might have been acted upon in relation to and by the Paymaster of Civil Services if his office had not been abolished.

Treasury to make new regulations for office of Paymaster General.

4. [*Recital.*] It shall be lawful for the Treasury, and they are hereby empowered, to prescribe such rules and regulations and to issue such orders from time to time in all matters and things relating to the said office, for the safety, economy, and advantage of the public service, as they shall see fit, which rules, regulations, and orders shall be of full force and authority, and shall be observed by the Comptroller General of her Majesty's Exchequer, and by the Bank of England, and by all bodies and persons whatsoever, in relation to all matters and things therein contained.

Regulations to be laid before Parliament.

5. A return, setting forth all rules, regulations, and orders which shall have been prescribed and issued by the Treasury in relation to the duties of the said office, shall be laid before Parliament within six weeks from the date of the issue thereof, if Parliament be then sitting, and if not then sitting, within six weeks from the day of the next ensuing meeting of Parliament.

6. [*Recital of 10 Geo. 4. c. 26. and of the Naval Prize Account kept, in pursuance of that Act, at the Bank of England.*] The Bank of England shall, on being required so to do by her Majesty's Paymaster General, transfer the balance of the said Naval Prize Account to the cash account opened in the books of the Bank of England in the name of the Paymaster General for the time being.

Balance of
Naval Prize
Account to be
transferred to
cash account of
Paymaster
General.

7. [*Recital that 100,000*l.* Three per Cent. Consolidated Bank Annuities arisen from unclaimed and forfeited shares of army prize money, are now standing in an account at the Bank of England.*] There shall be opened an account in the books of the Bank of England, to be intituled "The Stock Account of the Paymaster General and Secretary at War, as Trustees for the Army Prize Fund," and such account shall be a public account; and upon the death, resignation, or removal of both or either of them the said Paymaster General and Secretary at War for the time being, and upon the appointment of their or his successors or successor, the balance of the said account shall vest in the then Paymaster General and Secretary at War jointly, and when and so long as the office of one only of them the said Paymaster General and Secretary at War shall be vacant, the said balance shall vest in the other of them the said Paymaster General or Secretary at War for the time being, without any transfer or act in any of the cases aforesaid.

Army Prize
Fund Account.

8. The said sum of one hundred thousand pounds three per centum consolidated bank annuities . . . shall stand transferred to the said account, so that the same may be held by the said Paymaster General and Secretary at War, subject nevertheless to the direction of the said Commissioners of Chelsea Hospital as to the application thereof; . . .

Transfer to
such account of
stock arising
from unclaimed
and forfeited
shares of army
prize money.

9. It shall be lawful for the said Paymaster General and Secretary at War, and during the vacancy of the office of either of them then for the other of them the Paymaster General or Secretary at War for the time being, by letter of attorney duly executed and attested as is required by law, to authorize all or any of the cashiers of the Bank of England from time to time to sell and transfer all or any part of the stock for the time being standing on the account herein-before authorized to be opened, and to purchase stock on the said account, and to receive the dividends due and to become due on stock standing in the said account, and by the said letters of attorney, or by writing under their or his hands or hand, to direct the application of the monies to be received in respect of such sales and dividends; and every such power of attorney shall be exempted from stamp duty; and it shall not be necessary for the Governor and Company or the said cashiers to require any evidence of the direction of the Commissioners of Chelsea Hospital as to the matters so authorized by such letters of attorney and directions of the said Paymaster General and Secretary at War, or, during the vacancy

Powers of
attorney for
sale or pur-
chase of stock,
and for receipt
of dividends
and application
of moneys.

of the office of either of them, by such letters of attorney and directions of the other of them the Paymaster General or Secretary at War for the time being.

[S. 10 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXIX.

AN ACT to repeal so much of an Act of the Parliament of Ireland of the Twenty-third and Twenty-fourth Years of King George the Third, "for the more effectually punishing such Persons as shall by Violence obstruct the Freedom of Corn Markets and the Corn Trade, and who shall be guilty of other Offences therein mentioned, and for making Satisfaction to the Parties injured," as relates to the making of Satisfaction to the Parties injured; and to substitute other Provisions in lieu thereof; . . .

[31st August 1848.]

[*Preamble recites* 23 & 24 *Geo. 3. (I.) c.* 20.]

[S. 1 (*repealing so much of recited Act as relates to recovery of damages by actions against chief magistrates of counties or inhabitants of parishes*) *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Proceedings for
offences against
recited Acts.

2. All damages which have heretofore been sustained or shall at any time be sustained by any person or persons by means of any of such offences against the said recited Act, or by any violence committed against or contrary to the same, shall and may be recovered by like applications and proceedings, and by like presentments of the grand jury of the county, county of a city, or county of a town, in which any such offence or violence shall have been committed, and subject to like traverses, and subject to like provisions, and in like manner in all respects, as by the Grand Jury (Ireland) Act, 1836, or by the County Dublin Grand Jury Act, 1844, respectively, is or are provided in relation to the application for or recovery of compensation for losses or damages sustained by any person or persons by means of the mischievously or wantonly setting fire to, burning, or destroying any house, outhouse, or other building, or any haggard, corn, hay, straw, or turf, or the maliciously setting fire to, burning or sinking any boat or barge laden with corn or other provisions, or the maliciously killing, maiming, houghing, or injuring any horse, mule, ass, or swine, or any horned cattle or sheep, or the maliciously damaging, injuring, or destroying any bank, gate, lock, weir, sluice, bridge, dam, or other work, belonging to any person, public canal or navigation; and the provisions of the said two last-mentioned Acts respectively shall be accordingly applied for the recovery of compensation for damages sustained by means of any of such offences as aforesaid against the first-recited Act: Provided always, that in the case of any of such offences committed in the

6 & 7 Will. 4.
c. 116.
7 & 8 Vict.
c. 106.

Compensation
in case of

county of the city of Dublin compensation for damages sustained by any person or persons by means thereof shall and may be recovered in like manner in all respects as by^[1] an Act of the fourth and fifth years of the reign of her present Majesty, intituled "An Act for extending to the county of the city of " Dublin the provisions of an Act passed in the nineteenth and " twentieth years of his late Majesty King George the Third in " Ireland, intituled 'An Act to prevent the detestable practices " ' of houghing cattle, burning of houses, barns, haggards, and " ' corn, and for other purposes,' so far as relates to burning of " houses," is provided in relation to the malicious burning of houses, barns, haggards, corn, or other articles or effects.

offences committed in the city of Dublin may be recovered under 4 & 5 Vict. c. 10.

[S. 3 and s. 4 (repealing so much of Acts 13 Edw. 1. (Stat. Wyn.); 28 Edw. 3. c. 11; 10 & 11 Chas. 1. (I.) c. 13, as relates to remedies against hundreds or baronies in Ireland) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

5. This Act shall extend only to Ireland.

[S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Act to extend only to Ireland.

CHAPTER LXXII.

AN ACT to amend the Acts relating to the Constabulary Force in Ireland, and to amend the Provisions for the Payment of Special Constables.^[2] [31st August 1848.]

[Preamble.]

[Ss. 1, 2 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

3. [*Recital of 9 & 10 Vict. c. 97. s. 2.*] And whereas it is expedient to fix and determine the number of officers and men whose pay and expences may, under the provisions of the said Act, be wholly charged upon the said Consolidated Fund for each county, county of a city, or county of a town in Ireland: Be it therefore enacted, that the total number of officers and men wholly chargeable as aforesaid to the said Consolidated Fund shall be such as the Lord Lieutenant may from time to time consider to be required in each county, city, or town, but shall not exceed in any year the number specified in the schedule (A.) to this Act annexed, for each county, city, or town named therein.^[3]

Number of constabulary to be fixed by Lord Lieutenant, not exceeding number specified in schedule (A.) for each county, &c. therein.

[S. 4 (relating, *inter alia*, to charge on boroughs for constabulary appointed under 3 & 4 Vict. c. 108.) rep. 29 & 30 Vict. c. 103. s. 12.]

5. In all cases where an additional constabulary force shall have been certified by the magistrates of any county at large, at any general or special sessions, as now by law provided, to be

Proportion of sub-inspectors and head constables to additional force

S.L.R. 1954

^[1] 4 & 5 Vict. c. 10. is rep. 51 & 52 Vict. c. 57. (S.L.R.); but see terms.
^[2] Short title, "The Constabulary (Ireland) Act, 1848." See 55 & 56 Vict. c. 10.]

^[3] Schedule (A.) is rep. 38 & 39 Vict. c. 66. (S.L.R.); see 20 & 21 Vict. c. 17. s. 1; 28 & 29 Vict. c. 70. s. 3; 33 & 34 Vict. c. 83. ss. 10, 11; 48 Vict. c. 12.]

appointed on certificate of county magistrates, or on application from town councils of boroughs. 3 & 4 Vict. c. 108.

Expence of such sub-inspectors and head constables.

6 & 7 Will. 4. c. 13.

9 & 10 Vict. c. 97.

Where constabulary of any county, &c. ordered to any other place, &c., such place to be charged with moiety of the expence.

necessary for the due execution of the law within such county, and shall be appointed in conformity with such certificate, and also in all cases where an additional constabulary force shall be appointed for any borough in pursuance of the provisions of the Municipal Corporations (Ireland) Act, 1840, it shall be lawful for the Lord Lieutenant to appoint one sub-inspector for every fifty constables and sub-constables, and one head constable for every twenty-five constables and sub-constables, who may have been so appointed; and the expence of such sub-inspectors and head constables shall be chargeable upon such county or borough respectively, and be repaid by grand jury presentment, or from the borough fund, in the same manner as the expence of the constables and sub-constables who may have been so appointed.

6. And whereas by the Constabulary (Ireland) Act, 1836, the inspector general is authorized, subject to the direction and control of the said Lord Lieutenant from time to time as may be deemed expedient, to direct that the whole or any number of the constabulary force of any county, county of a city, county of a town, or town and liberties, shall go and repair to any place or places in any other county or counties, or in any county of a city, or county of a town, or town and liberties: And whereas in the Constabulary (Ireland) Act, 1846, among the cases in which it was enacted that counties and districts should still be chargeable in respect of the constabulary force, the case of a portion of the force of one county temporarily sent by the inspector general into another county was not provided for: Be it enacted, that whenever any officer or officers, head or other constable or constables, or sub-constable or sub-constables, shall be ordered by the inspector general, under the authority of the above-recited provision, to go and repair to any place or places in any county, county of a city, or county of a town, other than that to which he or they may belong or have been appointed . . . the county, county of a city, or county of a town to which he or they shall be so removed shall, in case the Lord Lieutenant shall so direct, be charged . . . with a moiety of the expence of each such officer, head constable, constable, or sub-constable, during the period of his or their remaining in such last-mentioned county, county of a city, or county of a town; and the amount of such moiety shall be repaid by grand jury presentment, in like manner as any sums payable in respect of the constabulary force.

Where constabulary employed under 8 & 9 Vict. c. 46. whole charge to be borne by company.

7. And whereas by an Act of the eighth and ninth years of her present Majesty's reign, intituled "An Act for the appointment of additional constables for keeping the peace near public works in Ireland," provision is made for the appointment and payment of additional head and other constables for keeping the peace in certain cases in the neighbourhood of railway works or other public works in Ireland: Be it enacted, that whenever such additional head or other constables shall have been or shall

be appointed and employed for the purposes and under the provisions of the said last-recited Act, the company or other parties carrying on such railway or other public works shall be chargeable for the expense of such head and other constables as in the said Act provided, but according to the proportion of head and other constables herein-before provided, . . . save that such company or parties shall be chargeable for the whole and not for the moiety only of such respective rates of charge.

8. And whereas by the Constabulary (Ireland) Act, 1836, the inspector general is required to make out a certificate, under his hand, of the amount of the monies chargeable under the provisions of the said Act on each county, county of a city, county of a town, or any part of any county, specifying the force or service in respect whereof such charge may have been incurred, and transmit the same, when approved and certified by the chief or under secretary for the Lord Lieutenant, to the secretary of the grand jury for such county, county of a city, and county of a town, one week before each assizes and presenting term, who shall lay the same before the grand jury: And whereas doubts have arisen in some cases with respect to the sufficiency of certificates which have been laid before grand juries in pursuance of the said last-recited enactment, and it is expedient to provide a form of certificate which shall be sufficient in all such cases: Be it therefore enacted, that the certificate to be transmitted by the said inspector general, or by one of his deputies, to the secretary of the grand jury of any county, county of a city, or county of a town, before any assizes or presenting term, and to be laid by the said secretary before the grand jury, shall and may be made in the form contained in the schedule (B.) to this Act annexed, or to the like effect, and shall not be required to state any further or other particulars than such as appear in the said form; and in case of there being no inspector general, or in case of his absence, any such certificate may be signed by one of the deputy inspectors general, and shall be of like validity.

6 & 7 Will. 4.
c. 13. s. 37.

Certificate of
amount charge-
able on any
county, to be
laid before
grand jury.

9. The officers and men of the constabulary force shall have the same rights, powers, and authorities, in and for each of the counties, counties of cities, and counties of towns immediately adjacent to that to which they may have been appointed, as if they had been appointed for such counties, counties of cities, or counties of towns respectively.

Constabulary
may act in
adjacent
counties, &c.

10. [Recital of 6 & 7 Will. 4. c. 13. s. 24; 2 & 3 Vict. c. 75. s. 24.] It shall and may be lawful for either of the assistant inspectors general (without any special appointment), or for any county inspector or sub-inspector who shall be appointed by the inspector general (or in his absence by one of his deputies) to be president of any court of inquiry into the truth of any charges or complaints preferred against any member of the said constabulary force of any neglect or violation of duty in his office, to examine on oath into the truth of such

Assistant in-
specter general,
or a county
inspector or
sub-inspector
appointed pre-
sident by the
inspector gene-
ral or his
deputy, may
inquire and
examine on

oath into the truth, &c. of charges against constabulary

Witnesses to have the same privileges and be subject to same penalties, as under recited Acts.

charges or complaints, and to summon any witness or witnesses on such inquiry, and to act in all respects in relation thereto as effectually as can be done under the said recited Acts by the inspector general or a deputy inspector general, or by any person nominated for the purpose of holding such inquiry by the Lord Lieutenant; and the witnesses summoned to attend such inquiry shall have the same privilege from arrest, and shall be subject to the same penalties for false swearing, and for refusing to be sworn, or (being sworn) to give evidence or to answer all such questions as may be legally demanded of them, as are provided in the said recited Acts: Provided always, that if any fine or imprisonment shall be imposed by the president of any such court, or person or persons holding such inquiry, upon any person summoned to attend thereat, he or they shall forthwith specially report the same to the Lord Lieutenant.

6 & 7 Will. 4.
c. 13. s. 17.

Oath may be taken before one magistrate.

11. And whereas by the Constabulary (Ireland) Act, 1836, a certain oath is required to be taken by all persons appointed under the said Act, and to be administered by any two magistrates: Be it enacted, that it shall and may be lawful for the said oath to be taken before and administered by one magistrate.

6 & 7 Will. 4.
c. 13. s. 38.

Appointment of person to act for receiver in case of his illness or absence.

12. And whereas by the Constabulary (Ireland) Act, 1836, the Bank of Ireland is authorized to pay the drafts of the receiver only, countersigned by the inspector general or one of his deputies, for constabulary services: And whereas the receiver may, from illness, or from absence on leave granted by the Treasury, be unable to draw such drafts, by which great inconvenience may arise to the public service, and for which no provision is made: Be it therefore enacted, that the said receiver shall submit for the approval of the Treasury the name of a person to act for and under the responsibility of the said receiver and of his sureties during his illness or in his absence; and when the Commissioners of her Majesty's Treasury shall signify to him their approval of such person to act as aforesaid, the said Commissioners shall notify the same to the inspector general and to the secretary of the Bank of Ireland, whereupon it shall and may be lawful for the Bank of Ireland to pay the draft or drafts of the person so named by the receiver (and approved by the Treasury) to draw the same in his behalf on the account of public monies for the said constabulary force during the illness or absence of said receiver; provided that the draft of such person shall be countersigned by the inspector general, or by one of his deputies, and shall express whether they are drawn during the illness or absence of said receiver; and the said receiver and his sureties shall be and they are hereby declared responsible for the act or acts of such person so authorized by such receiver to act in his behalf as aforesaid.

2 & 3 Will. 4.
c. 108.

13. And whereas by the Special Constables (Ireland) Act 1832, it was amongst other things provided, that in case any

tumult, riot, or affray is apprehended, it shall be lawful for any two or more justices of the peace, in the cases in the said Act mentioned, to appoint special constables: And whereas by the same Act power is given to the justices, as therein mentioned, to issue orders on the treasurer of the county, county of the city, or county of the town, in which such special constables shall have served, directing such treasurer to pay to the said special constable: such reasonable allowance for their trouble, loss of time, and other expences, as they may deem fit: And whereas doubts have arisen in some cases as to the legality of such orders on the treasurer, in consequence of their having been made payable, for the sake of greater convenience, to the clerks of the respective petty sessions in whose district such special constables shall have acted, for the purpose of having the monies mentioned in such orders distributed by such clerk amongst the said constables, and by this means avoiding a multiplicity of small drafts: And whereas it is expedient, for the better preservation of the public peace, and more easy mode of carrying out the provisions of the said Act, to remove the said doubts: Be it therefore enacted, that any such orders drawn in the manner last mentioned, or to the like effect, shall be as good and valid as any such orders drawn as in the said Act provided; and that it shall and may be lawful for the grand jury of any county, county of a city, or county of a town in Ireland, and such grand jury is hereby required, to present, without previous application to presentment sessions, to be raised off such county, county of a city, or county of a town, or any barony, half barony, townland, or other division or denomination of land, within which any such special constables may have served, the full amount of all sums paid by any such treasurer pursuant to any such order or orders, whether such order or orders shall have been made in favour of each individual special constable, or in favour of the clerk of the petty sessions of the district in which such special constables may have acted, for their use and benefit, and whether such orders shall have been made either before or after the passing of this Act; and in case of such orders made in favour of the clerk of the petty sessions, such clerk shall duly pay over to such constables any monies received by him by virtue of such orders, and forward to the treasurer a receipt from each constable for the amount paid to him, and a certificate from the magistrates at petty sessions that such sums have been so paid by their order.

Sect. 13.

Orders drawn by justices for payment of special constables under 2 & 3 Will. 4. c. 108., to be valid.

14. The Constabulary (Ireland) Act, 1836, and the several Acts in force amending the same, and this Act, shall be construed together as one Act.

6 & 7 Will. 4. c. 13, &c., and this Act, construed as one.

15. ~~The schedules to this Act annexed shall be deemed part of this Act~~

Schedules to be part of this Act. S. L. R. 1954

SCHEDULES to which the foregoing Act refers.

[Sched. (A.) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Sect. 8. SCHEDULE (B.)

S.L.R.
1954.

CONSTABULARY OF IRELAND.

CERTIFICATE of the EXPENCE of CONSTABULARY FORCES to be presented by the grand jury of the county of _____, and to be levied on the districts mentioned therein, for the half year commencing _____ and ending _____

	Amount.			Moiety.		
Expence of apprehension and conveyance of prisoners, and to be presented on the county at large	}					
Ditto of a force which is extra of the establishment, and to be presented on the county at large						
Ditto ditto ditto, and to be presented on the barony of _____	}					
Ditto ditto ditto, and to be presented on the half barony of _____						
Ditto ditto ditto, and to be presented on the townland of _____	}					
			£			

We do hereby certify, that the above demands, amounting to _____, are correct, and justly chargeable to, and to be levied on, the districts above mentioned.

A.B., Inspector General [or Deputy Inspector General] of Constabulary.
C.D., Receiver of Constabulary.

Approved and certified,
E.F., Chief [or under] Secretary.

CHAPTER LXXVIII.

AN ACT for the further Amendment of the Administration of the Criminal Law.[¹]

[*Preamble.*]

[1.] When any person shall have been convicted of any treason, felony, or misdemeanor, before any court of oyer and terminer or gaol delivery, or court of quarter sessions, the judge or commissioner or justices of the peace before whom the case shall have been tried may, in his or their discretion, reserve any question of law which shall have arisen on the trial for the consideration of the justices of either bench and barons of the Exchequer; and thereupon shall have authority to respite execution of the judgment on such conviction, or postpone the judgment, until such question shall have been considered and decided, as he or they may think fit; and in either case the court in its discretion shall commit the person convicted to prison, or shall take a recognizance of bail, with one or two sufficient sureties, and in such sum as the court shall think fit, conditioned to appear at such time or times as the court shall direct, and receive judgment, or to render himself in execution, as the case may be.

On convictions at assizes or quarter sessions questions of law may be reserved.

2. The judge or commissioner or court of quarter sessions shall thereupon state, in a case signed in the manner now usual, the question or questions of law which shall have been so reserved, with the special circumstances upon which the same shall have arisen; and such case shall be transmitted to the said justices and barons; and the said justices and barons shall thereupon have full power and authority to hear and finally determine the said question or questions, and thereupon to reverse, affirm, or amend any judgment which shall have been given on the indictment or inquisition on the trial whereof such question or questions have arisen, or to avoid such judgment, and to order an entry to be made on the record, that in the judgment of the said justices and barons the party convicted ought not to have been convicted, or to arrest the judgment, or order judgment to be given thereon at some other session of oyer and terminer or gaol delivery, or other sessions of the peace, if no judgment shall have been before that time given, as they shall be advised, or to make such other order as justice may require; and such judgment and order, if any, of the said justices and barons shall be certified under the hand of the presiding chief justice or chief baron to the clerk of assize or his deputy, or to the clerk of the peace or his deputy, as the case may be, who shall enter the same on the original record in proper form; and a certificate of such entry, under the hand of the clerk of assize or his deputy, or the clerk of the peace or his deputy, as the case may be, in the form, as near as may be or to the effect mentioned in the schedule annexed to

Statement and determination of case and judgment thereon.

[¹ Short title, "The Crown Cases Act, 1848." See 55 & 56 Vict. c. 10.]

this Act, with the necessary alterations to adapt it to the circumstances of the case, shall be delivered or transmitted by him to the sheriff or gaoler in whose custody the person convicted shall be; and the said certificate shall be a sufficient warrant to such sheriff or gaoler, and all other persons for the execution of the judgment, as the same shall be so certified to have been affirmed or amended, and execution shall be thereupon executed on such judgment, and for the discharge of the person convicted from further imprisonment, if the judgment shall be reversed, avoided, or arrested, and in that case such sheriff or gaoler shall forthwith discharge him, and also the next court of oyer and terminer and gaol delivery or sessions of the peace shall vacate the recognizance of bail, if any; and if the court of oyer and terminer and gaol delivery or court of quarter sessions shall be directed to give judgment, the said court shall proceed to give judgment at the next session.

Judgment to be delivered in open court.

3. . . . the judgment or judgments of the said justices and barons shall be delivered in open court, after hearing counsel or the parties, in case the prosecutor or the person convicted shall think it fit that the case shall be argued, in like manner as the judgments of the superior courts of common law at Westminster or Dublin, as the case may be, are now delivered.

Case or certificate may be sent back for amendment.

4. The said justices and barons, when a case has been reserved for their opinion, shall have power, if they think fit, to cause the case or certificate to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

When judgment reversed on writ of error, judgment may be pronounced or record remitted.

5. Whenever any writ of error shall be brought upon any judgment on any indictment, information, presentment, or inquisition, in any criminal case, and the court of error shall reverse the judgment, it shall be competent for such court of error either to pronounce the proper judgment or to remit the record to the court below, in order that such court may pronounce the proper judgment upon such indictment, information, presentment or inquisition.

Penalty for forgery of certificates.

6. Every person who shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any certificate of or copy certified by a chief justice, or any certificate of or copy certified by a clerk of assize or his deputy, or the clerk of the peace or his deputy, as the case may be, with intent to cause any person to be discharged from custody, or otherwise prevent the due course of justice, shall be guilty of felony, and being convicted thereof shall be liable . . . to be transported for any term not exceeding ten years . . .

Extent of Act.

7. This Act shall not extend to Scotland.

SCHEDULE.

Sect. 2.

WHEREAS at the session of the peace for the county of _____, held on _____, before _____, and others their fellows, [or at the session of oyer and terminer and gaol delivery held for the county of _____, on _____, before, among others, Sir *A.B.*, knight, one of the justices of the court of _____, and _____, *here name the quorum commissioners*, justices of oyer and terminer and gaol delivery,] *A.B.*, late of _____, labourer, having been found guilty of felony, and judgment thereupon given, that [*state the substance*], the court before whom he was tried reserved a certain question of law for the consideration of the justices of either bench and the barons of the Exchequer, and execution was thereupon respited in the meantime :

This is to certify, that the said justices and barons having met in the Exchequer Chamber at Westminster [*or Dublin, as the case may be,*] on the _____ day of _____, it was considered by the said justices and barons there that the judgment aforesaid should be annulled, and an entry made on the record, that the said *A.B.* ought not, in the judgment of the said justices and barons, to have been convicted of the felony aforesaid ; and you are therefore hereby required forthwith to discharge the said *A.B.* from your custody.

To the gaoler of _____, and the sheriff of _____, and all others whom it may concern.

(Signed) *E.F.*

Clerk of the peace for the county of _____
[or, Clerk of assize for
as the case may be].

CHAPTER LXXIX.

AN ACT to facilitate and simplify Procedure in the Court of
Justiciary in Scotland.^[1] [31st August 1848.]

[*Preamble.*]

[*Ss. 1, 2 rep. 54 & 55 Vict. c. 67. (S.L.R.) S. 3 rep. 55 & 56 Vict.
c. 19. (S.L.R.)*]

4. When in the High Court of Justiciary more than one case shall be set down for trial at one and the same diet, it shall not be necessary to lodge in court more than one list of assize, and such list shall be authenticated by the signature of a judge of the said court, and shall bear and be held to be a list of assize for the trial of all parties cited to that particular diet ; and the persons included in such list shall be summoned to pass generally upon the assize of all the accused parties cited to such diet, and one general execution of citation only shall be returned against them ; and a copy of such list, certified by one of the clerks of court, shall have the like effect, for all purposes for

One list of
assize sufficient
for all trials at
the same diet
in Court of
Justiciary.

[¹ Short title, "The Justiciary (Scotland) Act, 1848." See 55 & 56 Vict. c. 10.]

which such list may be required, as the principal list of assize authenticated as aforesaid.

One list sufficient for each district or circuit court.

5. In proceedings before the Circuit Courts of Justiciary one list of assize for each district or circuit court, authenticated by the signature of one of the judges of the said court, shall in like manner be sufficient; and a copy thereof, certified by one of the clerks of court, shall have the like effect, for all purposes for which such list may be required, as the principal list of assize authenticated as aforesaid.

[S. 6 *rep.* 54 & 55 *Vict.* c. 67. (S.L.R.)]

Record copies of proceedings, instead of being transcribed in books of adjournal, may be inserted therein, &c.

Books not completed at passing of this Act may be completed by insertion of record copies.

7. [*Recital.*] The record copies of criminal libels brought before the said court, and the record copies of all printed proceedings in the said court, shall, instead of being transcribed into the books of adjournal, as at present, be inserted in the said books either at their proper place in the body of such books, or at the end of the volume wherein the relative procedure is recorded, in which case they shall be distinctly referred to as so appended; and in so far as the said books of adjournal may not be completed at the passing of this Act, the same may be completed by the insertion of the record copies of the said libels and proceedings as herein directed; and the books of adjournal so made up and completed shall be and be taken to be and be used as the books of adjournal of the said court.

[S. 8 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.) S. 9 *rep.* 54 & 55 *Vict.* c. 67. (S.L.R.)]

Power to court to alter forms of interlocutors and sentences and substitute others.

10. It shall be in the power of the Court of Justiciary in Scotland, by an act or acts of adjournal or otherwise, to alter the forms of interlocutors and sentences at present in use in that court, and to substitute others in their place, in shorter or more convenient form, and such new forms of interlocutors and sentences shall have the same force, operation, and effect, in all respects, as the forms of interlocutors and sentences at present in use in place of which they may be substituted.

Power to court to make acts of adjournal to carry out this Act.

11. It shall be lawful for the said Court of Justiciary, and the said court is hereby required, from time to time to make all such rules and regulations, by act or acts of adjournal, as may be necessary for carrying out the purposes and accomplishing the objects of this Act: Provided always that copies of all such acts of adjournal shall, within fourteen days after the making thereof, be laid before both Houses of Parliament, if Parliament shall be then sitting, and if not, within fourteen days after the commencement of the then next session.

Repeal.

12. All laws, statutes, regulations, and usages inconsistent or at variance with the provisions of this Act shall be and the same are hereby repealed: Provided always, that the same shall continue in force in all other respects whatsoever.

[S. 13 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

CHAPTER LXXX.

AN ACT to empower Lessees of Tithe Rent-charge in Ireland to deduct a Proportion of Poor Rate Poundage from Rent;
 . . . [31st August 1848.]

[*Preamble recites 1 & 2 Vict. c. 56.*]

[1.] Where any person entitled to receive tithe rent-charge shall be liable to pay a rent in respect of the same, he shall be entitled to deduct from the rent so paid by him a sum bearing such a proportion to one half the amount of rate deducted from the tithe rent-charge received by him as the rent paid by him in respect of such tithe rent-charge bears to the tithe rent-charge which he is so entitled to receive.

Lessee of tithe rent-charge, if liable to pay rent for the same, may deduct from his rent a proportion of the poor rate deducted from the tithe rent-charge received by him.

[*Ss. 2, 3 local or personal. S. 4 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXXXII.

AN ACT to amend the Law for the Formation of Districts for the Education of Infant Poor. [31st August 1848.]

[*Preamble recites 7 & 8 Vict. c. 101.*]

[1.] So much of the said Act as prevents the commissioners therein mentioned from including in any such district any parish, any part of which would be more than fifteen miles from any other part of such district, and so much thereof as provides that the principal sum or sums to be raised for the purpose of providing any building or buildings for any school for any such district as aforesaid, and charged on any union, or on any parish not included in a union, shall in no case exceed one fifth of the average annual amount of the aggregate expenditure relating to the relief of the poor within any such parish for three years ending the twenty-fifth day of March next preceding the raising of such money, shall not apply to prevent the combination of any union, or any parish not in union, for the purposes aforesaid, nor the raising of any money for the purpose aforesaid, when the major part of the guardians of the several unions and parishes not in union proposed to be combined shall previously thereto consent in writing to such combination.

Power to remove certain limitations imposed by the recited Act.

2. All the provisions contained in the Poor Law Amendment Act, 1842, in respect of the election, qualification, resignation, and the acts, of guardians of a union, and in respect of the supply of vacancies in the board of guardians, shall apply to the members of the district boards formed or to be formed under the authority of the first-recited Act and of this Act.

5 & 6 Vict. c. 57. extended to district boards.

3. The several words in this Act shall be construed in the manner prescribed in the said first-recited Act.

Interpretation.

CHAPTER LXXXIII.

AN ACT to confirm the Awards of Assessionable Manors Commissioners, and for other Purposes relating to the Duchies of Cornwall and Lancaster. [31st August 1848.]

[*Preamble recites 7 & 8 Vict. c. 105.*]

[*Ss. 1, 2, 5, 6, Local and Personal. S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 4 rep. 26 & 27 Vict. c. 49. s. 1.*]

6 & 7 Will. 4.
c. 106.

In actions for
small debts in
the stannaries
court, the jury
to be five in
number.

7. And whereas by the Stannaries Act, 1836, provision is made for the trial of causes pending in the same court by a jury of twelve persons: And whereas actions prosecuted in the said court for the recovery of small debts are regulated by special rules of practice differing from the rules applicable to other actions on the common law side of the court, and the matters in issue between the parties to such actions may be well and conveniently tried by a less number of jurors: Be it therefore enacted, that in all such actions for the recovery of such small debts the number of jurors impannelled and sworn to try any issue shall be five only, and not twelve, and the jurors so sworn shall be required to give an unanimous verdict: Provided always, that no debt or demand shall be deemed to be a small debt within the intent and meaning of this enactment which shall exceed the sum of twenty pounds, or such other sum as shall hereafter be determined by any Act of Parliament to be a small debt within the jurisdiction of the county courts.

Thirty-six
jurors only to
be summoned
in future.

8. [*Recital.*] The registrar of the said court shall in future cause thirty-six persons named in the jurors book to be so summoned, and no more: Provided always, that, save and except as aforesaid, nothing herein contained shall be taken to alter the practice of the court, but all and every the powers, provisions, and authorities contained in the last-recited Act touching jury process and proceedings on trials by jury shall remain in full force, and be applicable and applied as well to trials by a jury of five as by a jury of twelve persons.

The vice
warden to
appoint bailiffs
to execute
process.

9. [*Recital.*] It shall and may be lawful for the vice warden for the time being to appoint from time to time a competent number of fit and responsible persons to be bailiffs of the said court, for the service and execution of all process on the common law side thereof, and process of attachment in equity, who shall give such security for the due performance of their duties as shall appear to the vice warden sufficient in that behalf, and shall hold their offices during his pleasure, and be entitled to demand and receive all lawful fees due to them in virtue of their office of bailiff; and all the powers, provisions, and enactments of an Act passed in the session of Parliament holden in the

Provisions of
7 & 8 Vict.
c. 19. to be

seventh and eighth years of the reign of her present Majesty, intituled "An Act for regulating the bailiffs of inferior courts," so far as the same touches and concerns the publication of lists of the names and abodes of such bailiffs, and of the fees allowed to them by law, the penalties for taking undue fees, the remedies against bailiffs for extortion, misconduct, or not duly paying or accounting for money levied, and the penalty for assaulting bailiffs in the execution of their duty, or rescuing persons or goods taken or levied under process, shall be held and taken to apply and extend to the court of the vice warden of the stanaries, and to the bailiffs appointed under the authority of this Act; and all constables and peace officers shall, when required thereto, be aiding and assisting in the execution of process by the said bailiffs within their several jurisdictions: Provided always, that nothing herein contained shall be construed to restrain the vice warden from making from time to time such rules and orders, touching the office, duty, and fees of bailiffs, as are not repugnant to this or any other Act of Parliament.

applicable to
bailiffs so
appointed.

10. [*Recital.*] All the powers, provisions, and enactments of an Act passed in the session of Parliament holden in the first and second years of the reign of his late Majesty King William the Fourth, intituled "An Act to enable courts of law to give relief " against adverse claims made upon persons having no interest " on the subject of such claims," so far as the same touches and concerns the relief and protection of sheriffs and other officers in the execution of process against goods and chattels, and the entering of record the proceedings taken under that Act, and the force and effect of rules and orders so entered, and the issuing of execution for taxed costs, and the fees for executing the same, shall be held and taken to apply and extend to the court of the said vice warden, and to the bailiffs of the said court so appointed as aforesaid; and it shall be lawful for the vice warden, or for the registrar of the said court, whether the court be sitting or not, to make rules and orders and to exercise the powers and authorities contained in the said Act for the relief and protection of such bailiffs, and, with the consent of the execution creditor and adverse claimant in any case, their attornies or agents, to dispose of such claims on the merits, and determine the same in a summary manner.

Provisions of
1 & 2 Will. 4.
c. 58. for the
relief of sheriffs
against adverse
claims to ex-
tend to the
vice warden's
court and
the bailiffs
thereof.

11. [*Recital of 6 & 7 Will. 4. c. 106. ss. 24, 25.*] It shall and may be lawful for the vice warden for the time being to appoint by writing under the seal of his court two fit and proper persons, who shall hold their offices at the will of the vice warden, to be clerks of the said court, and as such clerks to do and execute, under the direction of the vice warden, and in aid of the registrar, all the duties now performed by the prothonotary or assistant registrar, at and for the several yearly salaries of one hundred and twenty pounds and eighty pounds respectively, such salaries to be payable and paid at the times and in the

Duties of
prothonotary
to be per-
formed by two
clerks.

manner and out of the funds provided in and by the Stannaries Act, 1836, for the payment of the salary of the prothonotary or assistant registrar.

[*S. 12 rep. 56 & 57 Vict. c. 61. s. 2.*]

Property provided for court vested in the Duke of Cornwall.

13. All personal property, goods, chattels, and effects whatsoever, provided or to be provided for the use of the said court, or for the use of the vice warden for the time being, or other officer of the said court, shall vest in his Royal Highness the Duke of Cornwall in right of his Duchy.

[*S. 14, Local and Personal. S. 15 rep. 54 & 55 Vict. c. 67. (S.L.R.) S. 16 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXXXVII.

AN ACT to extend the Provisions of an Act passed in the First Year of His late Majesty King William the Fourth, intituled
 “ An Act for consolidating and amending the Laws for
 “ facilitating the Payment of Debts out of Real Estate.”^[1]
 [31st August 1848.]

[*Preamble recites 11 Geo. 4. & 1 Will. 4. c. 47. s. 12.*]

Recited provision to extend to lands, &c. of a deceased debtor which by descent, or otherwise than by devise, are vested in his heir or co-heirs, subject to an executory devise over in favour of a person or persons not existing or not ascertained.

[1] In cases in other respects falling within the said hereinbefore recited provision of the said Act, the said hereinbefore recited provision of the said Act shall extend and is hereby extended to any case in which any lands, tenements, or hereditaments of any deceased person shall by descent, or otherwise than by devise, be vested in the heir or co-heirs of such person, subject to an executory devise over in favour of a person or persons not existing or not ascertained; and in any such case it shall be lawful for the court mentioned in the said recited provision to direct such heir or co-heirs, notwithstanding such heir or such co-heirs, or any of them, may be an infant or infants, to convey, release, assign, surrender, or otherwise assure the fee simple or other the whole interest or interests so to be sold to the purchaser or purchasers, or in such manner as the said court shall think proper; and every such conveyance, release, surrender, assignment, or other assurance, shall be as effectual as if the heir or co-heirs who shall make and execute the same was or were seised or possessed of the fee simple or other whole estate so to be sold, and, if an infant or infants, was or were of full age.

[*S. 2 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[¹ Short title, “The Debts Recovery Act, 1848.” See 55 & 56 Vict. c. 10.]

CHAPTER LXXXVIII.

AN ACT for further regulating the Money Order Department of
the Post Office.^[1] [31st August 1848.]

[*Preamble recites 3 & 4 Vict. c. 96.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

2. It shall be lawful for the Postmaster General, with the consent of the Treasury, at any time hereafter, to make any regulations or restrictions relating to money orders, either heretofore granted or issued or to be hereafter granted or issued, and to the payment thereof, and to the persons by or to whom the same shall be paid, and to the times at which and the mode in which the same shall be paid, as the said Postmaster General, with such consent as aforesaid, shall see fit, and from time to time with such consent as aforesaid, to alter or repeal any such regulations or restrictions, and make and establish any new or other regulations or restrictions in lieu thereof; and all such regulations and restrictions shall be binding and conclusive, as well upon the persons to whom such money orders have been or shall be granted or issued, and the payees thereof, and all persons interested or claiming under them, and all other persons whomsoever, as upon all officers of the Post Office; and all such regulations and restrictions shall have the same force and effect in all respects as if the same had been and were contained in and enacted by this Act; and no action, suit, or other proceeding, at law or in equity, shall be brought, instituted, or commenced in any court, or before any judge or justice, or otherwise howsoever, against the Postmaster General or against any officer of the Post Office, or against any other person whomsoever, for or by reason or in consequence of the making of any such regulations or restrictions, or of any compliance therewith, or otherwise in relation to any such regulations or restrictions, or for or by reason or in consequence of the payment of any such money orders being refused or delayed by or on account of any accidental neglect, omission, or mistake, by or on the part of any officer of the Post Office, or for any other cause whatsoever, without fraud or wilful misbehaviour on the part of any such officer of the Post Office, any law, statute, or usage to the contrary in anywise notwithstanding.

3. It shall be lawful for the Postmaster General at any time to repay or refund the amount of any money orders, hereafter granted or issued, to the person or persons to whom the same shall or may be so granted or issued, or his, her, or their executors or administrators, whether such money orders shall remain or be in the possession of such person or persons or not;

[¹ Short title, "The Post Office (Money Orders) Act, 1848." See 55 & 56 Vict. c. 10.]

and in all cases, from and immediately after any such repayment or refunding as aforesaid, all liability by or on the part of the Postmaster General, or of any officer of the Post Office, or of the Post Office revenue, for or in respect of such money orders, or of the granting or issuing of the same, or of the repayment or refunding the amount thereof, shall, as against the payees of such money orders and the holders thereof, and all other persons whomsoever, absolutely cease and determine.

Penalty on
officers of Post
Office issuing
money orders
with fraudu-
lent intent.

4. Every officer of the Post Office who shall grant or issue any money order with a fraudulent intent shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and shall . . . be transported for the term of seven years.

Provisions as
to indictments,
&c. for Post
Office offences.

5. In any indictment or criminal letters for felony or misdemeanor committed or attempted to be committed in, upon, or with respect to the Post Office or the Post Office revenue, or in, upon, or with respect to any property, monies, money orders, goods, chattels, or effects, under the management or control of the Postmaster General, or where any act, matter, or thing shall have been done or committed by any person with or for any malicious, injurious, or fraudulent design, intent, or purpose, in anywise relating to or concerning the Post Office or the Post Office revenue, or any such property, monies, money orders, goods, chattels, or effects as aforesaid, or the Postmaster General, it shall be sufficient to lay any such property in, and to state or allege the same to belong to, and to state or allege any such act, matter, or thing to have been done or committed with intent to injure or defraud, "her Majesty's Postmaster General"; and in all indictments and criminal letters relating to or in anywise concerning the department of the Post Office, it shall be sufficient to name and describe the Postmaster General as "her Majesty's Postmaster General" without any further or other name, addition, or description whatsoever.

As to orders of
the Treasury.

6. . . . whenever the order, consent, authority, or direction of the Treasury is prescribed by this Act, such order, consent, authority, or direction (not being by warrant) may be signified under the hand of one of their secretaries or assistant secretaries.

Evidence of
warrants and
regulations.

7. Any printed copy of the London Gazette, purporting to be printed and published by the person or persons having authority to print and publish the same, shall be admitted as evidence by all courts, judges, justices, and others, in any part of her Majesty's dominions, of any Treasury warrant, and of any regulations or restrictions, which shall be issued or made under or by virtue of this Act, and contained in any such gazette, and of the due issuing thereof, and of the contents of any such warrant, regulations, or restrictions, without any further or other proof.

To be deemed
a Post Office
Act, and

8. This Act shall be deemed and taken to be a Post Office Act; and the several terms and expressions used in this Act

shall be construed according to the respective interpretations contained or referred to in the Post Office (Duties) Act, 1840, so far as those interpretations are not repugnant to the subject or inconsistent with the context of such terms and expressions.

construed as
3 & 4 Vict.
c. 96.

[S. 9 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER XC.

AN Act to regulate the Times of Payment of Rates and Taxes by Parliamentary Electors.

[31st August 1848.]

[*Preamble.*]

[1.] . . . no person shall be required, in order to entitle him to have his name inserted in any list of voters for any city, town, or borough in England, to have paid any poor's rates or assessed taxes, except such as shall have become payable from him previously to the fifth day of January in the same year; and no person shall be entitled to be on any such list of voters, unless the poor's rates and assessed taxes payable from him previously to the fifth day of January shall be paid on or before the twentieth day of July next following.

Regulations
as to the
payment of
rates and taxes
necessary to
entitle parties
to be on the
list of voters
for members of
Parliament.

CHAPTER XCI.

AN ACT to make Provision for the Payment of Parish Debts, the Audit of Parochial and Union Accounts, and the Allowance of certain Charges therein.^[1]

[31st August 1848.]

[*Preamble.*]

[1]: If the overseers of the poor in any parish shall lawfully, by virtue of their office, contract any debt on account of the parish within three months prior to the termination of their year of office, and the same shall not have been discharged by them before their year of office shall have determined, such debt shall be payable by and recoverable from their immediate successors in office, and chargeable upon the poor rate of the said parish, in like manner as the same would have been payable and chargeable by such first-mentioned overseers during their year of office; and if any such debt shall have been contracted during their year of office, but more than three months prior to its termination, the same shall be payable by and recoverable from their immediate successors in office, if the ratepayers of the parish in vestry assembled, and the Commissioners

Debts of over-
seers.

[¹ Short title, "The Poor Law Audit Act, 1848." See 55 & 56 *Vict. c.* 10.]

for administering the Laws for Relief of the Poor in England; shall consent, but not otherwise.

Provision for payment of bills of costs for legal proceedings.

2. Provided nevertheless, that where any proceedings . . . shall be hereafter carried on, for or on behalf of any parish, in a court of law, regarding any matter affecting the poor rates of such parish, it shall not be necessary that the bill of costs of the solicitor engaged therein shall be paid before the termination of the proceedings, but in any such case the amount of the bill, when duly taxed, if otherwise chargeable against the parish, shall be payable out of the poor rates within the space of one year next following the termination of the proceedings, but not afterwards, unless the commissioners aforesaid shall by their order authorize the payment of the costs and expences attending any such proceedings by annual instalments, not exceeding five, to commence from such termination.

[S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Appeal against allowances, disallowances, and surcharges.

4. Where any appeal shall be made to the said commissioners against any allowance, disallowance, or surcharge made by any auditor in the accounts of any guardians, overseers, or their officers, it shall be lawful for the said commissioners to decide the same according to the merits of the case; and if they shall find that any disallowance or surcharge shall have been or shall be lawfully made, but that the subject matter thereof was incurred under such circumstances as to make it fair and equitable that the disallowance or surcharge should be remitted, they may, . . . direct that the same shall be remitted, upon payment of the costs, if any, which may have been incurred by the auditor or other competent authority in the enforcing of such disallowance or surcharge.

Mode of ascertaining and certifying balances due from officers.

5. [*Recital.*] Where any overseer or officer shall be continuing in office at the time when the accounts are audited, the auditor shall certify as due such sums of money only as shall be disallowed or surcharged by him in the accounts so audited; but where the term of office of such overseer or officer shall have expired at the time when the accounts are audited, he shall ascertain the balance which he shall find to be then due on the accounts so audited, together with the sums (if any) which he shall have disallowed or surcharged, and shall give credit for all sums which shall be proved before him to have been paid in respect of such balance to the succeeding overseers or officers or otherwise lawfully applied on behalf of the parish or union interested therein, before the date of his audit, and he shall certify, report, and recover, in the manner provided by law, the balance remaining due after such credit shall have been given; and every certificate made by any auditor, if made according to the forms set forth in the schedule hereunto annexed, or to the like effect, shall be deemed to be sufficient: Provided always, that where the sum or the aggregate of the sums disallowed

by the auditor in the account of any officer shall not amount to forty shillings, the same may be paid over with the balance due from such officer, instead of being paid to the treasurer.

6. Where any money shall have been paid by an overseer to a constable, headborough, tithingman, or other peace officer, in obedience to . . . an order of justices in petty sessions assembled, purporting to be made in conformity with the provisions contained in the Act of the sixth year of the reign of her present Majesty, for the appointment and payment of parish constables, it shall not be disallowed by any auditor or other authority competent to examine, allow, and disallow the accounts of overseers, on any ground whatsoever.

Sums paid by overseers to constables under 5 & 6 Vict. c. 109. not to be disallowed.

7. In addition to the notices now required by law to be given by the auditor, he shall also give notice by advertisement in some newspaper circulating in the county wherein the union or the greater part of it, or, in the case of a parish not comprised in a union, wherein such parish shall be situated, a reasonable time prior to the holding of his audit; and the production of a copy of such newspaper shall in all courts and for all purposes be deemed sufficient evidence of the notice of the audit; and, except where a party, not being an officer bound to account to the auditor, shall be surcharged by such auditor, it shall not be necessary to prove that the audit of any accounts was adjourned, and that notice of any such adjourned audit was given.

Notice of audit to be advertised.

8. If an auditor shall see cause to surcharge any person now liable by law to be surcharged by him, and to whom no notice is now required by law to be given, with any sum of money in reference to any payment considered by him to have been illegally or improperly made, he shall, if the person be not present at such audit, cause notice in writing of his intention to make such surcharge to be given, by post or otherwise, to the person against whom he shall propose to make this surcharge, addressed to him at his last known place of abode, and shall adjourn the audit, so far as it shall relate to such particular matter, for a sufficient time to allow of such person appearing before him, and showing cause against such surcharge, and at such time the said auditor shall hear the party, if present, and determine according to the law and justice of the case.

Notice by auditor to person surcharged.

9. In any proceedings to be taken by an auditor, or by his attorney, before justices, to recover sums certified by him to be due, it shall be sufficient for him to produce a certificate of his appointment under the seal of the Poor Law Commissioners, or of the commissioners aforesaid, and to state and prove that the audit was held, that the certificate was made in the book of account of the union or parish to which the same relates, and that the sum certified to be due had not been paid to the treasurer of the guardians of the union, or of the parish, as the case may require, within seven days after the same had been so

Recovery of sums certified by auditor.

certified, nor within three clear days before the laying of the information, of which nonpayment a certificate in writing, purporting to be signed by the treasurer, shall be sufficient proof on the part of the auditor; and if at the hearing of such information it shall be proved that the said sum had been paid to the treasurer subsequently to the date of such last-mentioned certificate, the costs incurred by such auditor shall be paid by the party against whom the information shall be laid, unless he prove that notice of such payment had been given to the auditor twenty-four hours at least prior to the laying of the information.

Auditor may
appoint a
deputy.

10. The said commissioners may at any time, upon sufficient cause being shown to them, authorize any person selected by the auditor to act temporarily as his deputy, and shall communicate to the several unions and places forming his district the name of the person so appointed to act as his deputy, and such person shall thereupon be empowered to act in all respects, and with the same authorities, and subject to the same duties and liabilities, as the auditor himself is entitled or subject to.

Power for
parishes
mutually to
bear the costs
of several
appeals.

11. Where appeals are brought at the same time against the poor rates of several parishes, which may appear to involve some common principle, it shall be lawful for the overseers or other authorities therein, with the consent of the respective vestries of such parishes, to enter into an agreement, to be approved of by the said commissioners, mutually to bear the costs which may be properly incurred in and about the trial of such appeals on the part of the several respondents, as well as costs of the appellants, if any, which may be awarded against the respondents, in such proportions as shall be fixed and determined with reference to the amount of interest of the several parishes in the question, or otherwise as shall appear just; and the said agreement shall continue binding upon the several parishes, and their respective overseers in succession, until the several appeals shall have been finally determined.

Power for
guardians, &c.
of parishes or
unions under
local Acts to
grant out-door
relief.

4 & 5 Will. 4.
c. 76.

12. [*Recital.*] In all cases where the relief of the poor is administered in any parish or union under the provisions of any local Act, it shall be lawful for the guardians or other competent authority administering the relief to the poor in any such parish or union, if they think fit, to administer such relief in all respects in like manner, and with the like powers and authorities, as any board of guardians of a union formed under the provisions of the Poor Law Amendment Act, 1834, is now or shall hereafter be authorized to do; Provided always, that the cost of all such relief so to be given shall be charged among the parishes in the same union in like manner and in like proportion as the relief . . . to be given in the workhouse of such parish or union . . . shall . . . be chargeable.

13. The several words used in this Act shall be construed in the manner prescribed by the said herein-before recited Act, and the Acts explaining and extending it. Interpretation.

SCHEDULE to which this Act refers.

FORMS of Certificates.

Sect. 5.

1.—*Against an accounting Officer.*

I do hereby certify, that in the account of *A.B.*, the [set out the name of the office] of the parish of [or of the union], I have disallowed [or surcharged] the sum of

As witness my hand, this day of , 1848.

M.N., Auditor of the district, which comprises the above-named parish or union.

2.—*Against a person not an accounting Officer.*

I do hereby certify, that in the accounts of the union [or of the parish of] I have disallowed the sum of £ , as a payment illegally made out of the funds of such union [or parish]; and I find that *C.D.*, of , authorized the making of such illegal payment, and I do hereby surcharge the said *C.D.* with the same.

As witness my hand, this day of , 1848.

M.N., Auditor of the district, which comprises the above-named union or parish.

CHAPTER XCII.

AN ACT for the Protection and Improvement of the Salmon, Trout, and other Inland Fisheries of Ireland.^[1]

[31st August 1848.]

[*Preamble recites* 5 & 6 *Vict. c. 106*; 7 & 8 *Vict. c. 108*; 8 & 9 *Vict. c. 108*; 9 & 10 *Vict. c. 86*.]

[1.] The Commissioners of Public Works in Ireland, as Commissioners of Fisheries, together with the Inspecting Commissioners of Fisheries herein-after mentioned, shall be commissioners for the execution of this Act; and shall for the purposes of this Act and the said recited Acts have and use all the powers, privileges, and authorities vested in the commissioners for the execution of the said Acts; . . . Appointment of commissioners for the purposes of this Act.

[¹ Short title, "The Fisheries (Ireland) Act, 1848." See 55 & 56 *Vict. c. 10*.]

[S. 2 (*providing that two existing inspectors of fisheries shall be Inspecting Commissioners of Fisheries*) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Sub-division
of districts.

3. [*Provision requiring Commissioners to divide Ireland and the sea coast and islands thereof into districts to be defined and described by suitable notices and maps to be published for that purpose, rep. 38 & 39 Vict. c. 66. (S.L.R.)*]. The said commissioners shall subdivide each such district into two or more electoral divisions, to be called the upper or fresh water and lower or tidal electoral divisions of such districts, and upon the maps aforesaid the said commissioners shall cause to be delineated the limits and boundaries of such electoral divisions as aforesaid; and it shall be lawful for the said commissioners from time to time, if it shall appear to them expedient or necessary so to do, to alter any such district or electoral division, and fix other boundaries for the same, duly publishing and describing the same as herein-before provided.

Election of
conservators
for districts.

4. For each such district as aforesaid conservators of fisheries shall be annually elected and appointed, as herein-after provided.

Number of
conservators.

5. The said commissioners shall be authorized and empowered to determine and declare the number of conservators, not less than three nor more than nine, which shall be elected and returned from each such electoral division to represent the same; and the persons so to be returned for each electoral division shall be the elected conservators of fisheries for the district until the next annual election.

Owners of
several
fisheries of a
certain value to
be ex officio
conservators.

6. If in any district one or more persons shall possess a several or exclusive fishery or fisheries therein, as owner, lessee, or occupier, valued under the Acts for the more effectual relief of the destitute poor in Ireland at one hundred pounds yearly or upwards, he or they shall be entitled to sit with the elected conservators for such district, and shall be deemed ex-officio a conservator or conservators for the same, so long as he or they shall possess such fishery or fisheries, and shall have a vote in all matters, and shall have all the powers and privileges under this Act which the said elected conservators may individually possess: Provided always, that where a fishery so rated shall be held by several persons as owners, lessees, or occupiers, one person alone shall sit and act as a conservator as aforesaid in respect of such fishery.

By whom the
elected con-
servators are
to be chosen.

7. The elected conservators shall be elected annually by the persons who shall have paid licence duty and been licensed within each electoral division of a district in the current-year, under the provisions of this Act, in the manner herein-after mentioned.

Licensing and
rating of en-
gines, nets, &c.

8. All engines, nets, instruments, or devices whatsoever, used for the taking of salmon, trout, pollen, or fish of the salmon and

trout kind, or for the taking of eels, and all fixed salmon, trout, or eel fisheries within any district, or on or off the sea coast thereof, shall, except as herein-after provided, before the same be used in any year, be duly licensed and rated in the manner herein-after prescribed, upon payment of the licence duty or rate, as the case may be, herein-after provided.

for salmon
and trout
fishing, &c.

9. Every person who shall have paid licence duty under this Act within and for any such electoral division within any year shall be entitled to vote at the election of the conservators to be chosen for such division held for such current year, either in person or by proxy, according to such regulations and forms for the election as shall be fixed and directed by the commissioners before-mentioned, such proxy being a qualified elector, and shall be entitled to have a vote or votes thereat according to the following scale; (that is to say,) if the licence duty so paid by such person shall not amount to two pounds, one vote; if the same shall amount to two pounds, and not to five pounds, two votes; and if the same shall amount to five pounds, and not to ten pounds, three votes; and if the same shall exceed ten pounds, four votes.

Mode of
election.

10. For the purposes of the first meetings in each and every electoral division under this Act for the election of conservators as aforesaid, the said commissioners shall fix and determine the scale of licence duties and rates to be paid as aforesaid in respect of all engines, nets, instruments, or devices whatsoever, used for the taking of salmon, trout, pollen, or fish of the salmon or trout kind, and for the taking of eels, and for all fixed salmon, trout, or eel fisheries within each district, or on or off the sea coast thereof, and shall give public notice of the same within each electoral division, and such scale of licence duties and rates shall remain in force until the same shall be altered under the provisions of this Act: Provided always, that such licence duties and rates respectively shall not exceed the amount of the respective licence duties and rates specified in the schedule to this Act annexed.

Scale of
licence duties
and rates for
each district.

11. The said commissioners shall appoint the places and times at which all persons who shall have paid the licence duty as herein provided in each electoral division of each district for the year one thousand eight hundred and forty-nine shall assemble in the month of July in that year, the commissioners giving two weeks notice thereof, by hand-bills, and advertisements in two or more newspapers circulating in such district; and all persons who shall have paid any such licence duty for such year within such electoral division shall be entitled to vote at such respective meeting, and shall choose a chairman to preside thereat: Provided always, that it shall be lawful for the said commissioners, or any one or more of them, to attend and preside at any such first meeting, instead of such chairman.

First meetings
for election of
conservators.

Annual
election of
board.

12. The persons so assembled in each electoral division at such first meetings, and at all annual meetings for such elections, and who shall be qualified to vote under this Act, shall have power to elect the appointed number of persons as herein provided to represent them as conservators of the fisheries for the ensuing year; and it shall and may be lawful for the chairman as aforesaid, or the said commissioners, as the case may be, to receive the votes of the persons so assembled as aforesaid, and to declare the persons who shall have received the greater number of votes to be the elected conservators as aforesaid; and the chairman of such meeting, or the said commissioners, as the case may be, shall certify under his or their hand the election of each conservator, and furnish him with a certificate, which shall be sufficient authority for him to act as such conservator as herein provided, and shall also within four days after such election cause a list of such conservators, with a statement of the residence and post town of each, to be transmitted to the office of the said commissioners; and the persons so elected for each electoral division of a district shall conjointly form, with any such ex-officio conservators as aforesaid, a board of conservators of fisheries for such district, until the formation of a new board in like manner in the ensuing year, and so in like manner in each succeeding year.

Powers to
boards to fix
the licence
duty and rates.

13. After the first board of conservators of fisheries for any district shall have been formed, the board of conservators for each such district shall be and are hereby empowered from time to time, as they shall think fit, to fix and determine, subject to the approval of the commissioners, the amount of licence duty to be paid for each year for every engine, net, instrument, weir, or device, set forth in the schedule to this Act, used for the taking of salmon, trout, pollen, or fish of the salmon kind, and for the taking of eels, within each such district, or on or off the sea coast thereof, and for every engine, net, instrument, weir, or device, for any such purpose, which may be proposed to be used, and which is not enumerated in the said schedule; and the board of conservators are hereby also empowered to fix and determine, subject to the approval of the commissioners, from time to time, the rate per centum to be paid for each year upon the poor law valuation, in the cases of fixed and established salmon, trout, or eel fisheries, which are designated several fisheries, as herein-before mentioned, within each district, or on or off the sea coast thereof: Provided always, that no licence duty or rate to be fixed by the said conservators shall exceed the respective amount of duty specified in the said schedule, or the rate of ten per centum on the poor law valuation of established or several fisheries; and that any alteration in the same so to be made shall commence and have effect on and from the first day of January in the then succeeding year.

14. The board of conservators of each district shall from time to time fix and determine and duly publish notice of the times and places for the general meetings of such board, and also the times and places for the then next annual meetings of electors in each electoral division for the election of conservators for the same.

Boards to fix times and places of meetings.

15. If the persons entitled to meet and elect such representatives or conservators in any one or more electoral division or divisions of a district shall fail or neglect for any year so to do, the representatives or conservators of any other one or more electoral division or divisions of such district for which conservators shall have been elected shall be empowered, nevertheless, to act in all matters and things relating to such district under the provisions of this Act.

Provision where any electoral division fails to elect.

16. If no one electoral division in a district shall in any year elect conservators as aforesaid, it shall be lawful for the previously existing board of conservators for such district to continue to act as, and to all intents and purposes they shall be, conservators for such district for that year.

Provision where all divisions fail to elect.

17. For the purposes of this Act, at all district meetings of the board of conservators, three of the persons entitled and empowered to act and vote thereat, as herein-before provided, shall form a quorum, and all matters and things shall be determined and decided by the majority of such persons so assembled; and if on any matters upon which a difference may arise the votes shall be equal, the chairman shall, in addition to his original vote, be entitled to give a casting vote.

Quorum, and casting vote of chairman.

18. It shall and may be lawful for any such board of conservators assembled at a district meeting to fix time and place for holding a general annual meeting, and hold adjourned meetings; and it shall be lawful for any three conservators from time to time to call special meetings, provided that notice of the place and time of each such special meeting, subscribed by three or more conservators, or by the clerk of the board, on their requisition to him, shall be inserted at least twice in some two newspapers circulating in the county or counties in which such district shall be situate, at least ten days before such meeting shall be held, or that the clerk of such board shall, on such requisition as aforesaid, give ten days notice in writing of such meetings to each conservator entitled to act within such district.

Annual and special meetings of conservators.

19. It shall and may be lawful for the board of conservators for each such district, at the annual general meeting, or some other meeting specially appointed by them before the first day of October in each year, at any time when it may be necessary or expedient, to nominate and appoint a clerk or clerks, with reasonable salary or salaries, as the said board may think necessary, and to appoint some bank to act as treasurer or

Appointment of clerk, treasurer, inspectors, and water bailiffs.

treasurers of such board, and also to appoint as many inspectors and water bailiffs as may be necessary, with reasonable salaries but only to the extent which the funds at their disposal will admit of, for the protection of the fisheries in the district, and for generally enforcing the fishery laws within the same: Provided always, that no elected or other conservator shall be eligible to hold any appointment under this Act from which any salary or emolument shall be derived; and it shall be lawful for the board of conservators from time to time to remove any such clerks, inspectors, or water bailiffs, and to nominate others in their stead.

Provision of
passes for fish.

20. The board of conservators of any district shall be and are hereby empowered to apply from time to time any portion of the funds in the hands of the treasurers to the credit of such district which they may think fit, for the purpose of making passes in or over weirs, or removing or making passes in or over natural obstructions in any river in such district, subject to the sanction of the said commissioners, under the provisions of the Fisheries (Ireland) Act, 1842; and upon obtaining the sanction of the said commissioners it shall be lawful for the said board of conservators to place to the credit of the said commissioners such sum of money as shall have been for that purpose approved and sanctioned by them, and it shall be lawful for the said commissioners thereupon, as they shall think fit, to construct such works and make such alterations in the bed of any river as shall effectually secure a free and uninterrupted passage for fish, or to direct and cause such alterations to be made in any weir, dam, or dyke erected in or across any river frequented by salmon, for affording a free and uninterrupted passage for fish, pursuant to the powers and provisions of the Fisheries (Ireland) Act, 1842.

5 & 6 Vict.
c. 106.

Provisions
where licence
duties for en-
gines, nets, &c.
not enume-
rated in
schedule.

21. For any engine, instrument, net, weir, or device whatsoever, not enumerated in the schedule to this Act, and which may be proposed to be used for fishing for salmon, trout, pollen, or fish of the salmon or trout kind, or for eels, it shall be lawful for the said commissioners at any time before a board of conservators shall be formed, and after the formation of such board it shall be lawful for such board of conservators for the district, as the case may be, to fix and determine the licence duty on payment of which the same may be used in such district, regard being had, as far as practicable, to the relative capability of capture and productiveness of the same, as compared with those set forth in the said schedule, and the relative proportion of the duties therein set forth: Provided always, that the party proposing to use any such engine, instrument, net, weir, or device, not enumerated in such schedule, shall previously give notice to some constabulary or coast guard officer of the district, or to some inspector appointed under this Act, of his intention to use the same, who shall and is hereby required to forward to the

said commissioners or the said conservators, as the case may be, a description thereof, as to its relative capability of capture as compared with the engines, instruments, nets, weirs, or devices, set forth in the said schedule, and shall furnish the name by which it shall be designated, upon which the commissioners or the said conservators, as the case may be, may authorize the use of the same, upon payment of the licence duty which they may fix, and cause the same to be inserted in the schedule of licences for the said district: Provided always, that rods used singly for taking trout, perch, pike, or other fish, save and except salmon, shall not be subject to any licence duty under this Act: Provided also, that if any person using a rod shall, under pretence or otherwise of fishing for trout, perch, pike, or other fish, take or kill salmon with such rod, such person shall be subject to a penalty of the like amount as the licence duty for the time being payable for a salmon rod, and the same shall be recoverable before a justice or justices in like manner as other penalties under the said recited Acts or this Act: Provided also, that all cross lines used with a rod or rods for taking fish of any kind whatsoever shall be subject to the licence duty payable under this Act for the time being upon cross lines and rods, until the same shall be altered as herein provided.

22. If any person shall use or erect any engine, net, instrument, or device whatsoever, subjected to licence duty as aforesaid, for the taking of salmon, trout, pike, or fish of the salmon or trout kind, or eels, or by any means fish within any fixed salmon, trout, or eel fishery in any year, without the same respectively being duly licensed for such year under the provisions of this Act, every such engine, net, instrument, and devices, and such means of fishing, shall be forfeited and sold, or otherwise disposed of, as the justice or justices shall deem fit . . . ; and any person erecting or using the same shall be liable to pay such penalty, not less than half nor exceeding the whole of the licence duty at which under this Act the engine, net, instrument, or device he shall have been so using or erecting would for the time being be subject to under this Act, as such justice or justices shall think fit; such forfeitures and penalties to be proceeded for and recovered under the warrant of such justice or justices, in the manner and subject to the regulations in the Fisheries (Ireland) Act, 1842, provided as to the recovery of forfeitures and penalties thereunder.

Persons using engines, nets, &c. without licence, liable to penalty.

Recovery, &c. of forfeitures and penalties.

5 & 6 Vict. c. 106.

23. In all cases of fixed and established salmon, trout, or eel fisheries, which under the provisions of the said first-recited Act are designated "several fisheries," or are now or may hereafter be claimed or possessed or used as several fisheries, whether the same be fished by means of weirs extending entirely or partly across rivers or estuaries, with boxes, baskets, or cruives, or be fished by means of existing natural or artificial obstruction

Several fisheries to be subject to annual rate.

stopping the fish, or by draft, pole, loop, or other nets, or by rod and line, or by any other means or device whatsoever, the persons using, occupying, or holding such fisheries, whether such occupation and holding shall be by lease, demise, agreement, or tenancy at will, or in fee simple, fee tail, or for life, shall in each year pay as an annual rate, in two equal half-yearly gales, on the first day of February and the first day of July in every year, such sum, in addition to the licence duty by this Act provided to be paid for the engines, instruments, nets, or devices, erected or used in fishing such fishery, as shall be equal to the amount of the difference between the sums paid by such respective persons for such licence duty or duties as aforesaid and the annual sum of ten per centum upon the poor law valuation of such fishery, subject to such alteration of such per-centage as may from time to time be made by the board of conservators of the district under the provisions of this Act.

Recovery of
rate.

24. Any such last-mentioned rate may be recovered in a summary way before any one or more justice or justices of the peace, in like manner as wages, or by civil bill before the assistant barrister of the respective county, or by action in the superior courts, at the suit of the said commissioners, if no board of conservators of the district shall have been formed, or if such board shall have been formed, then at the suit of the clerk of the said board of conservators, as the case may be.

Valuation of
fisheries.

25. In any cases where any such fisheries as last aforesaid may not be or have not been valued by the persons appointed as valuers for the purposes of the poor laws in force in Ireland, the said commissioners, on the application of the board of conservators, may and are hereby empowered to call upon the Poor Law Commissioners of Ireland to cause the same to be valued, separately and distinctly from other property, for the purposes of this Act.

Collection of
rate.

26. Such last-mentioned rate shall be collected by such persons as the said commissioners for the execution of this Act, at any time before the formation of a board of conservators for the district, or after the formation of such board, then as the said board, as the case may be, shall from time to time appoint, adequate security being taken by the said commissioners or the said conservators, as the case may be, from the persons authorized to receive the same, for the duly accounting for the same, and for the due performance of the duties which the said commissioners or the said conservators, as the case may be, may prescribe for them; and the costs of any allowance to be made for the collection of the same shall be charged to the expences of the district for which the same shall be collected.

All monies
received for
licences and
rates in each

27. . . . all sums of money received for licence duties and rates . . . for each such district, shall be paid over by the parties receiving the same to and received by such treasurer

of such district, and be applied to the purposes of such district under the provisions of this Act; and such treasurer shall pay such sums of money as shall be required for the purposes of the district from time to time, upon a draft or order signed by the chairman at any general meeting of the board of conservators, and by two other conservators.

district to be paid to treasurer, and applied to defray the expenses of district.

28. All licences under this Act shall be prepared and printed in such form as the said commissioners shall prescribe or from time to time think necessary to adopt; and a separate licence shall be issued for each separate engine, net, instrument, or device for taking fish; and each licence issued before the formation of a board of conservators for the district shall be stamped with the seal of the said commissioners, and if issued after the formation of such board shall be stamped with the seal of such board, which seal shall be provided for such purpose: Provided always, that the year for which such licence shall issue, and a name, number, or letter, describing the district and the electoral division for the purposes of this Act in which the licence shall be used, and the name of the engine, net, instrument, or device, for which the same shall be issued, shall be printed thereon in clear and legible characters; and such licence shall be only good and valid for the year, district, and purpose for which the same shall be issued, and for no other; and that any party using or presenting the same for any other year, district, or purpose, or in any manner altering or fraudulently counterfeiting the same, shall be liable to a penalty, not less than the whole amount of the licence duty for which the same shall have been issued, or which the party so misusing or counterfeiting the same would be liable to under this Act, and not exceeding double the amount of the same, at the discretion of such justice or justices before whom the offence may be tried.

Form of licences, &c.

Penalty for misusing or counterfeiting licence.

29. Any person using any such engine, net, instrument, or device as aforesaid, or having the same erected or in fishing order, or found with the same in his possession, in or near any fishing place, or going to or returning from fishing, shall and is hereby required to produce to any of the said commissioners or any officer of the said commissioners, or any conservator of the district, or any inspector, water bailiff, or officers, or men of the navy, coast guard, or constabulary, when demanded, the licence for the same, under and subject to like penalties (in case of failure) as in the last preceding provision mentioned: Provided always, that such parties as shall to the satisfaction of the justices or justice be proved to have them in possession as manufacturers or sellers of the same, and not for the purposes of using the same within the year in which such demand shall be made of them respectively, shall be exempt from any such penalty.

Persons using or having engines, nets, &c. to produce licence when required, under penalty.

30. Such licences as aforesaid under this Act shall be publicly sold, either by licensed stamp distributors, or by such persons,

Sale of licences.

Proviso as to
rod-fishing.

and in such and so many places, throughout each district, as the said commissioners before the formation of a board of conservators for the district, or after the formation of such board, then as such board of conservators, as the case may be, shall from time to time appoint, adequate security being taken by the said commissioners or the said board of conservators, as the case may be, from the persons authorized to sell the same, for duly accounting for the same, and for the due performance of their duty; and the cost for any allowance to be made for the sale of the same shall be charged to the expences of the district for which the same shall be issued: Provided always, that if any person shall have paid a licence duty for a rod within any district as aforesaid, such person shall not be liable to pay an additional sum for a licence in any other district by reason only of angling with a rod in any other district.

Licences to be
sold to all
persons
but not to
confer rights
not otherwise
possessed.

31. All persons whosoever demanding to purchase any such licences, and tendering to any person so appointed to distribute the same the amount of licence duty for the time being to be paid under the provisions of this Act, shall be entitled to receive the same without any question or objection whatsoever arising either from the time when, the purpose for which, or the right in virtue of which, he or they may desire to use such licence, or on any other grounds whatsoever: Provided always, that nothing herein contained with reference to the possession of any such licence, or the payment of the licence duty or rates under this Act, shall be construed to give or confer any right of fishing or of using any instrument or device for taking fish by any means or in any place which the party having or using such licence would not have possessed if this Act had not been passed, or to alter or affect the rights of any other persons.

Accounts of
sales of
licences.

32. All persons whom the commissioners or board of conservators, as the case may be, shall appoint to sell licences as aforesaid, shall furnish to the said commissioners or board of conservators, as the case may be, an account of such sales monthly, or so often as they may require, and shall set forth in such accounts the sums received for licences for each particular engine, net, instrument, or device, the names and residences of the persons who shall have purchased such licences as aforesaid, and the district, and electoral division of such district, for which such licences shall have been obtained.

Security to be
given by clerk
and officers.

33. The board of conservators of each district shall take sufficient security from any clerk whom they may appoint, and any other officer or person having the care or custody of money to be received by virtue of this Act, for the due execution of the duties of his respective office, or for duly accounting for such money, as the said board of conservators shall think proper; and such clerks shall attend the stated and other meetings of the said board, and shall, in a proper book or books to be provided for that purpose, enter and keep a true account of all

Duties of clerk.

the monies to be received by virtue of this Act, and of the application of the same, and of all the acts, proceedings, and transactions of the said board, by virtue of and under the authority of this Act, and shall perform such other duties as the said board may direct; and every conservator shall and may at all convenient times have access to and peruse and inspect the same; and each such board are hereby empowered and required to cause their said clerk to furnish to the said commissioners annually, or as often as they may require, an account of all monies received and disbursed relating to each such district under the authority of the board of conservators.

34. Such inspectors and water bailiffs as shall be appointed under the provisions of this Act shall have, for the enforcement of the said recited Acts and this Act, the powers of constables, and all the powers and authorities conferred on water bailiffs, or officers or men of the constabulary force, or coast guard, or navy, under the said recited Acts, or any of them.

Powers of
inspectors and
water bailiffs.

35. All fines, penalties, and forfeitures under this Act, not herein-before provided for, shall be recoverable in like manner and subject to like provisions as penalties and forfeitures under the provisions of the said first-recited Act;

Recovery of
fines and
penalties.

36. The appointment of officers under this Act shall not be subject or liable to the payment of any stamp duty

Exemption
from stamp
duty.

37. Provided always, that nothing in this Act contained shall be construed to lessen or abridge the powers conferred by the said recited Acts on the said commissioners, or on any inspectors, water bailiffs, officers, and men of the navy, coast guard, or constabulary, but the same shall remain and be in full force and effect for the purposes of the said Acts, and for aiding the officers, inspectors, and water bailiffs to be appointed under this Act for enforcing the provisions of the said Acts and this Act.

Saving of
powers of the
commissioners,
&c.

38. The said commissioners shall be empowered to attend any meeting of any board of conservators held under the provisions of this Act, and to advise, consult, and confer with them upon the regulation, management, and improvement of the fisheries, and shall and may at all convenient times have access to and peruse, when they shall think fit, the books and accounts kept for the purposes of any district under this Act.

Commissioners
may attend and
advise at
meetings of
conservators.

39. [Recital of provisions of 5 & 6 Vict. c. 106; 9 & 10 Vict. c. 114; relating to the alteration of the close season.] . . . in case the said commissioners shall decide upon altering any of such close seasons as aforesaid, such change or alteration shall commence and take effect at the expiration of six weeks from the date of the publication of the said decision in the Dublin Gazette, . . .

Notice of
alteration of
close seasons.

[S. 40 *rep.* 38 & 39 Vict. c. 66. (S.L.R.)]

41. If any person or persons, not being authorized by the owner, lessee, or occupier of a several fishery, as defined under the first-recited Act, shall enter into or upon such several

Penalty for
unlawful
fishing.

5 & 6 Vict.
c. 106.

Minimum of
penalties under
5 & 6 Vict.
c. 106. s. 36.

fishery for the purpose or under the pretence of killing fish therein or taking fish therefrom, or shall kill fish therein or take fish therefrom, he or they shall for every such offence forfeit and pay a sum not less than ten shillings nor more than five pounds, the same to be recoverable in a summary way before a justice or justices, as provided by the Fisheries (Ireland) Act, 1842.

42. [*Recital of 5 & 6 Vict. c. 106. s. 36.*] Every person who shall commit any of the offences in the said section of the said Act specified shall (in addition to any other forfeiture thereby specified) forfeit and pay a sum not exceeding the sum for such offence respectively specified in the said section of the said Act, and not less in any case than the sum of ten shillings: Provided always, that nothing in this Act contained shall be construed to legalize any fishery or weir not being legal at the time of the passing of this Act.

[*S. 43 rep. 41 & 42 Vict. c. 79. (S.L.R.)*]

Sect. 13. SCHEDULE to which the foregoing Act refers.

SCALE of licence duties for each engine, net, instrument, or device, used in salmon, trout, pollen, or eel fisheries in districts.

	£	s.	d.
1. Single salmon rods - - - - -	1	0	0
2. Cross lines and rods - - - - -	2	0	0
3. Snap nets - - - - -	1	10	0
4. Draft nets or seines - - - - -	3	0	0
5. Drift nets - - - - -	3	0	0
6. Trammel nets, or draft nets for pollen - - - - -	1	10	0
7. Pole nets - - - - -	2	0	0
8. Other nets, or similar engines not named above - - - - -	} -- Licence duties, such as shall be fixed by commissioners or conservators, as provided by this Act.		
9. Bag nets - - - - -			
10. Fly nets - - - - -	5	0	0
11. Stake nets, or stake weirs (Scotch) - - - - -	5	0	0
12. Head weir - - - - -	15	0	0
13. For every box, crib, cruive, or drum net in any weir, for taking salmon or trout - - - - -	3	0	0
14. For every gap, eye, or basket in any weir, for taking eels - - - - -	5	0	0
	1	0	0

Note.—Fixed fisheries for salmon or eels claimed to be “several fisheries,” whether fished by means of fixed weirs with boxes, cruives, or rails for stopping the fish, or by means of the fish being stopped by rocks or other natural or artificial obstructions, and taken by means of draft or other nets - - -

} -- to be rated at ten per cent. on poor law valuation, unless such per-centage be reduced by the commissioners or by the conservators, as provided by this Act.

CHAPTER XCIX.

AN ACT to further extend the Provisions of the Act for the Inclosure and Improvement of Commons.^[1]

[4th September 1848.]

[*Preamble recites* 8 & 9 *Vict. c. 118*; 9 & 10 *Vict. c. 70*;
10 & 11 *Vict. c. 111*.]

[1.] It shall be lawful for the commissioners, in their provisional order in the matter of any inclosure, to set forth any special agreement or matter concerning or affecting the lands to be inclosed, and to make the same a condition of such inclosure; and where, after an application shall have been made to the commissioners . . . to certify the expediency of an inclosure, under the provisions of the said firstly-recited Act, any person interested within the meaning of the said Act in land not subject to the operation of the inclosure proposed to be made under such application shall, by application in writing to the commissioners, submit to the operation of the proposed inclosure such land, or any easement or other right or interest in such land, in consideration of any allotment, easement, or benefit to be made or secured under such inclosure, and shall specify his estate and interest in such land, the commissioners, if they shall think the proposal beneficial, may embody in their provisional order in the matter of the said inclosure any directions and agreements in reference to such proposal, and make such directions and agreements a condition of such inclosure; and an award made in the matter of such inclosure, in pursuance of any provisional order containing such condition, and signed by the person making such application, shall have as full effect and be as binding, as well as respects the land or right or interest in land which shall have been so submitted to the operation thereof as the lands subject to be inclosed under the original application, as if the land or right or interest in land so submitted had been land subject to be inclosed under the original application, and as if such person so interested had signed the same application: Provided always, that if such person shall refuse or neglect to sign such provisional order, such inclosure may proceed as regards the land the immediate subject of such inclosure as if no application by such person had been made, and as if the directions and agreements in reference to such proposal had not been embodied in such provisional order: Provided also, that no such direction or agreement as last aforesaid shall be embodied in a provisional order unless notice of the intention so to do shall have been given by advertisement in two successive weeks, and one calendar month shall

Provisional
orders for
inclosure by
consent.

[¹ Short title, "The Inclosure Act, 1848." See 55 & 56 *Vict. c. 10*.]

have elapsed from the publication of the last of such advertisements; and in case before the expiration of such month any person entitled to any estate in or to any charge upon the land to be so submitted to the operation of the inclosure shall give notice to the commissioners of his dissent from such direction or agreement, the commissioners shall not embody such direction or agreement in such provisional order unless such dissent shall be withdrawn, or it shall be shown to the commissioners that the estate or charge of the party so dissenting shall have ceased.

8 & 9 Vict.
c. 118.

Omission of
allotments in
map.

2. And whereas the provision of the Inclosure Act, 1845 that the map to be annexed to the valuer's report shall comprise and show the lands in respect of which any allotments have been made, occasions unnecessary expence in certain cases: Be it enacted, that it shall be lawful for the commissioners, in the matter of any inclosure, if they shall think fit, by order under their seal, to direct that such lands shall not be comprised nor shown in such map; and after such direction shall have been made by any such order in the matter of any inclosure it shall not be necessary for the valuer to comprise or show any such lands in any such map to be annexed to his report.

Small allot-
ments may be
compensated
in money.

3. Where the valuer acting in the matter of any inclosure shall certify in writing to the commissioners that the value of the allotment of any person interested in the lands to be inclosed, in case such allotment should be made, would not exceed five pounds in value, it shall be lawful for the commissioners, with the consent of such person, to direct the valuer under their seal to award to such person, in lieu of such allotment, a sum of money which he shall deem equivalent in value to the allotment which would have been made to him in respect of his right and interest under the said recited Act; and every such sum shall be set forth in the valuer's report before the same is deposited; and the sum of money which may be awarded in respect of such right and interest may be raised in the same way that money may be raised for expences incident to inclosures under the provisions of the said recited Act, and shall be paid to the party for the time being interested, as in the case of surplus of purchase money on the sale of part of an allotment for expences.

Private and
occupation
roads.

4. The valuer acting in the matter of any inclosure may, where he shall think fit, set out such private or occupation roads and ways through the land to be inclosed as by reason of the alteration of public roads or ways, or otherwise, he shall think requisite for the use, wholly or in part, of persons interested in other lands; and any expences which the valuer may incur in relation to the setting out or formation or completion of such private roads, or any of them, shall, unless the valuer shall otherwise direct, be paid by such of the owners for the time being of the land the subject matter of such inclosure, and of the owners of land for whose use the said roads shall have been

set out, or of either of such classes, and in such shares and proportion, as the valuer shall direct; and after the formation and completion of such private roads and ways, the same shall be maintained and kept in repair by and at the expence of such of the said several owners, in such shares and proportions, and in such manner, as the valuer shall direct: Provided always, that the grass and herbage on such roads shall be subject to the same regulations as if they had been private or occupation roads set out under the Inclosure Act, 1845.

8 & 9 Vict.
c. 118.

5. It shall be lawful for the valuer, with the sanction of the commissioners, by his award to direct that the expences of repairing, cleansing, and maintaining all or any of the private roads and ways, common ponds, ditches, watercourses, embankments, tunnels, and bridges, thereby directed to be set out and made, enlarged, or altered and maintained, shall be raised by rate to be levied on the lands of which the owners for the time being might have been directed by such award to repair, cleanse, and maintain the same roads, ponds, ditches, watercourses, embankments, tunnels, and bridges respectively, in such proportions as he shall by his award direct.

Maintenance
of private
roads, &c.

6. Where the expences of repairing, cleansing, and maintaining any private or occupation roads and ways, common ponds, ditches, watercourses, embankments, tunnels, or bridges shall have been directed to be raised by rate as aforesaid, a meeting shall be called by the commissioners of the owners of the lands subject to such rate, at such time after the confirmation of the award as the commissioners shall by notice on the church door appoint; and the major part in value of such owners present, by themselves or their agent authorized in this behalf, at such meeting shall elect a fit person to be rating officer; and every such officer so to be elected as aforesaid, or to be elected or re-elected at any subsequent meeting, shall continue in office until the expiration of fifteen days after the day of the annual meeting of such owners then next following, and no longer, unless he shall be re-elected at such annual meeting; and such owners shall ever after such first meeting meet for the election of a rating officer on the first Monday in February in every year; and the owners assembled at such meetings shall from time to time fix, increase, or diminish the salary or payment to be made to every such rating officer; and any such rating officer may be removed by four fifths in value of the owners of such lands present, by themselves or their agents authorized in this behalf, at any meeting called for the purpose, by fourteen days notice on the church door, under the hands of any two such owners; and in case any such rating officer shall die while he shall hold such office, or shall be removed as aforesaid, it shall be lawful for the majority in value of owners of such lands present as aforesaid at any meeting, which upon such vacancy any two owners may call, by fourteen days notice on the church

Appointment
of rating
officer.

door, to appoint a rating officer in his place, who shall hold the office until the expiration of fifteen days after the then next annual meeting; and a certificate in writing, under the hands and seals of two justices of the peace, of the election of any rating officer, (which certificate any two justices of the peace are authorized, if they think fit, to give, on the request and upon the declaration of any owner of such lands, or the agent of any such owner, present at the meeting at which the election shall have taken place,) shall, in all matters and proceedings whatsoever in which any acts done by any rating officer in the execution of his office shall be in question, be evidence that he was duly appointed rating officer.

Rating officer
to maintain
roads, &c. and
make rates, &c.

7. The rating officer for the time being shall, subject to such orders and instructions in writing as may from time to time be agreed on by the majority in value of the owners of such lands as aforesaid at their yearly meetings, maintain and keep in order the said roads, ways, common ponds, ditches, drains watercourses, embankments, tunnels, and bridges, and shall, for the payment to be made to rating officers, and all expences in and about the premises, under the directions of any such meeting of owners, from time to time make a rate on the respective owners for such sum as the majority in value of owners present at such meeting shall think requisite; and every such rate shall be apportioned and paid by the owners according to the proportions directed by the award as aforesaid, and shall be paid to the rating officer on demand thereof, and in case the same shall not be paid within fourteen days after demand thereof shall be recoverable by such rating officer by distress; and any such demand or distress may be made of or on the occupier of any such land, as if the occupier were the owner liable to the payment of such rate, and such rate may be paid by any such occupier on demand thereof; and the money so paid by such occupier shall be deemed a payment on account of his rent, and shall be allowed by his landlord accordingly.

Liability of
occupiers.

Money raised
by mortgage,
&c. of allot-
ments to be
paid to com-
missioners.
8 & 9 Vict.
c. 118.

8. Where any persons shall, under the provisions of the Inclosure Act, 1845, mortgage their allotments or demise the same in trust, for the purpose of raising money to defray the inclosure expences, the said money shall be paid to the commissioners, and the receipt of the commissioners shall be a sufficient discharge to the mortgagee or lessee for the receipt of such money; and such money shall be applied by the commissioners for the purpose for which it may be raised under the said recited Act.

Claims of
common or
other rights

9. Notwithstanding anything in the Inclosure Act, 1845, contained it shall be lawful for the valuer in the matter of any inclosure to receive any claims in writing made by any persons claiming any common or other right or interest in such inclosure, although such claims may not contain the several particulars in respect

whereof they are made, nor distinguish the claims in respect of freehold, copyhold, or customary and leasehold property from each other, nor mention therein the places of abode of the respective claimants or their agents; but such claims shall be good and valid if the persons making the same shall state therein that they claim common or other right or interest in the land proposed to be inclosed, in respect of the land, premises, or right named in such claims: Provided always, that it shall be lawful for the valuer to require persons delivering any claims to amend the same in such particulars and on such conditions as the said valuer shall think just and reasonable; and no such claims shall be inserted in the statement of claims to be deposited by him under the provisions of the said Act, until the places of abode of the respective claimants, or their agents, shall have been given in writing in the said claims, or indorsed thereon.

10. Where the valuer acting in the matter of any inclosure shall, under the authority and direction of the commissioners, and in manner provided by the Inclosure Act, 1845, have ordered all or any part of the rights of sheep walk, common, or other rights in or over the land to be inclosed, or any part thereof, to be extinguished, or the exercise thereof to be suspended, or where such valuer shall have directed any of the allotments to be made in such inclosure to be entered upon by the persons respectively for whom the same shall be intended, if any person shall wilfully or maliciously commit any damage, injury, or spoil to or upon any fences, ditches, or other works made or done for the purposes of such inclosure, or to or upon any such allotment, the person so offending, being convicted thereof before two justices of the peace having jurisdiction in the county or place, shall forfeit and pay such sum of money as shall appear to such justices to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of five pounds; and such sum shall be paid to the valuer, to be applied by him in aid of the expenses in such inclosure, or to the person in possession of such allotment, as the justices may think fit and direct; [*Remainder of section rep. 39 & 40 Vict. c. 20. s. 1, which substitutes other provisions.*]

Prosecution of persons damaging fences, &c. of inclosures.
8 & 9 Vict. c. 118.

11. Where the valuer acting in the matter of any inclosure shall have directed any of the allotments to be entered upon by the persons for whom the same shall be intended, it shall be lawful for any person who shall have entered upon or taken possession of any such allotment by virtue of such direction, or his tenant, to commence, prosecute, and maintain any action of trespass, ejectment, or other suit at law, for any entry upon or injury or damage that may be done or committed to such allotment, or the soil or herbage thereof, or the fences thereof, or for the recovery of the possession thereof, although the award in the matter of such inclosure may not have been made, without

Actions of trespass, ejectment, or for damage before award made.

prejudice nevertheless to the power of the valuer, under the said Acts, to make alterations in allotments.

On neglect of owner of an allotment to fence, owner of neighbouring allotment may do the necessary works.

12. Where any person to whom an allotment shall have been made by an award in the matter of any inclosure, or the owner for the time being of such allotment, shall refuse or neglect to make any ditch or fence which, according to the directions of such award, ought to be made by or at the expense of the owner of such allotment, it shall be lawful for the owner or occupier of any other allotment made in the same inclosure, who shall be aggrieved in the enjoyment of his allotment by such refusal or neglect, to cause the person so refusing or neglecting to be served, in the manner herein-after mentioned, with a written notice, signed by the owner or occupier so aggrieved, or his agent, of his intention to proceed under the authority of this Act to make such ditch or fence, in case the same should not be made within three calendar months from the time of serving such notice; and in case such ditch or fence shall not be made within such three calendar months, it shall be lawful for the owner or occupier so aggrieved, or his agent, (if such owner or occupier shall so think fit,) to make or cause to be made such ditch or fence, in such manner as the same ought to have been made, according to the directions of the said award, by the owner so neglecting or refusing as aforesaid, and for such purpose, with labourers and workmen, to enter upon the allotment by the owner of which such ditch or fence ought to have been made, and to do all such acts as may be necessary or proper; and all costs and expences incurred in such work by the owner or occupier so aggrieved shall be reimbursed to him by the owner so neglecting or refusing as aforesaid, and may be recovered by action of debt or on the case, and, if the amount claimed in respect thereof shall not be more than twenty pounds, shall be recoverable in the county court of the district where the work shall be done; and any notice as aforesaid may be served either personally or by leaving the same with some person being in and apparently residing at the place of abode of the owner for the time being of the allotment to which such notice shall relate; but if such owner cannot be found, and his place of abode shall not be known, or admission thereto cannot be obtained for serving such notice, the posting of such notice conspicuously on the allotment to which the same shall relate shall be deemed good service on the owner thereof: Provided always, that neither the power herein before contained, nor the making of such ditch or fence by the owner or occupier so aggrieved as aforesaid, shall affect any right or remedy which such owner or occupier would otherwise have had in respect of the neglect to make such ditch or fence, or of any trespass or damage occasioned thereby.

Provisions of Inclosure Acts concerning exchanges, &c.

13. [*Recital.*] It shall be lawful for the commissioners, upon the application in writing of the persons interested, according to the definitions in the Inclosure Act, 1845, contained, in the

several undivided parts or shares of any land not subject to be inclosed under the Inclosure Act, 1845, or in land subject to be inclosed under such Act as to which no proceedings for an inclosure shall be pending, and who shall desire to effect a partition of such land, to direct inquiries whether such proposed partition would be beneficial to the owners of such undivided parts or shares; and in case the commissioners shall be of opinion that such partition would be beneficial, and that the terms of the proposed partition are just and reasonable, they shall, unless notice of dissent to the proposed partition shall be given, under the provision herein by reference contained, cause to be framed and confirmed an order of partition, with a map or plan thereunto annexed, in which order shall be specified and shown the land allotted in severalty to each person so interested in respect of the undivided part or share in which he shall be so interested respectively; and the land allotted in severalty upon every such partition, in respect of each such undivided part or share, shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the undivided part or share in respect whereof the same shall be allotted would have stood limited or been subject to, in case such order had not been made.

14. The provisions of the Inclosure Act, 1845, concerning notice, dissent, and confirmation, and expences, with respect to an exchange of lands not subject to be inclosed under such Act, or of lands subject to be inclosed under such Act as to which no proceedings for an inclosure shall be pending, and all other provisions of the Inclosure Act, 1845, and of the Acts for amending and extending the same, applicable to such exchange as aforesaid, shall be applicable to a partition of land under this Act.

Provisions of
8 & 9 Vict.
c. 118.
as to ex-
changes to
apply to
partitions
under this Act.

[S. 15 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

16. This Act shall be taken to be part of the Inclosure Act, 1845, the Inclosure Act, 1846, and the Inclosure Act, 1847.

Construction.
8 & 9 Vict.
c. 118.
9 & 10 Vict.
c. 70.
10 & 11 Vict.
c. 111.

CHAPTER CL.

AN ACT to provide for the Expences of erecting and maintaining
Lock-up Houses on the Borders of Counties.

[4th September 1848.]

[*Preamble recites* 5 & 6 *Vict. c.* 109.]

[1.] It shall be lawful for the justices of the peace in and for any county, and for the mayor, aldermen, and burgesses of any borough, (having a separate commission of the peace,) to agree with the justices of the peace of any one or more county or counties, or

Provision of
lock-up houses
for counties
and boroughs.

with the mayor, aldermen, and burgesses of any one or more such borough or boroughs, that a lock-up house shall be erected, hired, or otherwise provided, at some place or places on or near any common boundary, or in any other situation convenient for the purposes aforesaid, or that a lock-up house for any county or borough, or any lock-up house, strong-room, or cage, which might have been appropriated for a county under the said Act, and which shall be in a situation convenient for the purposes aforesaid, shall be appropriated, and, if necessary, enlarged or improved, for such purposes accordingly, and that the same shall be so provided or appropriated, enlarged and improved, and shall be from time to time repaired and furnished, and a superintendent constable appointed and paid for taking charge thereof, at the joint expence of the counties and boroughs by the justices and mayor, aldermen, and burgesses of which respectively such agreement shall be made, in such manner and proportions as in the said agreement shall be specified: Provided always, that no such lock-up house shall be erected, hired, provided, appropriated, enlarged, or improved, except upon such plan as shall be approved of by one of her Majesty's Secretaries of State: Provided also, that every such lock-up house shall be subject to the inspection of the inspectors of prisons.

Appointment
of committees
to treat.

2. It shall be lawful for the justices of the peace of any county in general or quarter sessions assembled (and due notice having been previously given according to the practice of the said sessions) to take into consideration the expediency of making any such agreement as aforesaid with any such parties as aforesaid, and, if the justices then and there assembled shall resolve that it is expedient that such agreement should be made, to appoint not less than three and not more than five justices for the said county to be a committee for treating with any committee appointed by any other of the parties aforesaid, for the purposes aforesaid, and from time to time at such quarter sessions, or at any adjournment thereof, to fill up any vacancy in the said committee; and it shall be also lawful for the council of any such borough, at a special meeting to be called for that purpose, to take into consideration the expediency of making any such agreement as aforesaid with any of such parties as aforesaid, and, if the council shall resolve that it is expedient that such agreement should be made, to appoint not less than three and not more than five persons, being members of such council or justices for such borough, to be a committee for treating with any committee appointed by any other of the parties aforesaid for the purposes aforesaid, and from time to time at a quarterly meeting of the council to fill up any vacancy in the said committee.

Agreement of
joint com-
mittee as to
sites.

3. The committees so appointed shall be deemed to represent severally each of the contracting parties, and shall meet and form one joint committee, and may draw up an agreement for the purposes of this Act, which agreement, when subscribed by

the greater number of the members of such joint committee severally representing each of the contracting parties, and approved as herein-after directed, shall be binding upon all the said parties to all intents and purposes; and every such agreement shall specify the place where such lock-up house is to be situated, and the salary of the superintendent constable, and the proportion in which the expences of purchasing (where a site is to be purchased) the site, and of building or enlarging, improving, and fitting and furnishing, such lock-up house, and of repairing the same, and the salary of such superintendent constable, shall be borne by each of the contracting parties; and such agreement may specify or provide, where a site is to be purchased, for the appointment of trustees to and in whom the same shall be conveyed and vested in trust for all the counties and boroughs on behalf of which the same shall be purchased: and such agreement shall provide how the appointment of the superintendent constable of such lock-up house shall be from time to time made.

4. Wherever any agreement shall have been so entered into and signed, the committee appointed by each county and borough respectively shall report the agreement for approval to the general or quarter session of the peace of every such county holden next after the making thereof, and to a special meeting of the council of every such borough, to be convened for the purpose, and shall deliver to the court and council respectively a duplicate of the agreement, to be filed by the clerk of the peace and by the town clerk of each of the said parties respectively, to be by them kept with the records of the several parties aforesaid: Provided always, that if such agreement be not so approved, it shall be lawful for the said contracting parties severally to refer the same back for reconsideration to the said joint committee, after which the same shall be again reported until finally approved as aforesaid, or until any of the parties shall break off the agreement or treaty; and after such agreement shall have been approved, the justices of each county and the council of each borough concerned therein may direct the committees by them respectively appointed to re-assemble, or may from time to time appoint other committees to meet, together with committees appointed by the justices or council, as the case may be, of the other county or borough concerned therein, to execute such agreement, and to do all necessary acts consequent upon such agreement, as occasion may require; and such committees shall have power to do all necessary acts accordingly, and may cause to be purchased and conveyed, in such manner as by such agreement shall be provided, or as the justice or justices and council, parties to any such agreement, may direct, any land which may be required for the purposes of this Act.

Approval of
agreement.

5. So far as respects the power to detain therein and remand thereto, and to convey thereto and therefrom, persons taken

Lock-up
houses to be
deemed lock-up

houses for each
county or
borough.

into custody, every such lock-up house shall be deemed a lock-up house in and for each of the counties and boroughs for the joint use of which the same shall be provided, and all justices, constables, and others shall have authority accordingly.

Tenure of
office and
duties of super-
intendent
constable.

6. Every superintendent constable so appointed as aforesaid to take charge of such lock-up house as aforesaid shall be entitled to hold his office during good behaviour, or until he shall be dismissed therefrom by the orders of such justices and council, or otherwise as by such agreement may be provided, and shall be paid such salary, and in such manner, and at such times, and in such proportions, out of the county, borough, or other rates, as shall be provided by such agreement; and every such superintending constable shall have all the powers and immunities of a parish constable under the said recited Act, and shall have the superintendence of all the parish constables appointed in such parishes as shall be specified in the said agreement, and under such regulations as shall be therein provided.

Interpretation.

7. In this Act the word "county" shall include every riding, part, or division of a county having a separate commission of the peace, and every liberty having a separate commission of the peace; the word "borough" shall include a city, town, or port; words importing the plural number shall include the singular number; and words importing the singular number shall include the plural number.

[S. 8 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER CII.

AN ACT to enlarge the Powers of an Act empowering the Commissioners of Her Majesty's Woods to form a Royal Park in Battersea Fields; to facilitate the raising of Monies authorized to be raised by the said Commissioners for Metropolitan Improvements; and to regulate and simplify the Mode of keeping the Accounts of the Commissioners of Her Majesty's Woods. [4th September 1848.]

[Ss. 1-5 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 5 enlarges powers of Commissioners of Woods under 4 & 5 Vict. c. 40.]

6. And whereas the said commissioners are by divers Acts of Parliament authorized to charge certain funds, duties, and revenues, constituting a fund which is commonly called "The London Bridge Approaches Fund," with certain sums of money amounting altogether to the sum of four hundred and eighty-nine thousand pounds, with interest on such sums respectively, for the purpose of effecting certain improvements in the Metropolis, and the said commissioners are authorized to raise

monies for the aforesaid improvements on the credit of the funds, duties, and revenues so charged, but by reason of prior existing charges, which wholly absorbed and will for some time continue to absorb the said funds, duties, and revenues, the said commissioners were, by the said Act of the fourth and fifth years of her Majesty's reign herein-before recited, authorized to borrow monies as aforesaid, for the purposes of the said improvements, on the security of the land revenues of the crown, as in the said Act is mentioned; and by the said Act it was provided that all such monies as should come to the hands of the said commissioners by means of leases or sales of property purchased for effecting the said improvements, and the income thereof, and monies to be borrowed on the credit of charges made by the said commissioners on the said duties, funds, and revenues called "The London Bridge Approaches Fund," and otherwise, as in the said Act is mentioned, should be applied in repayment of such sums of money as might be borrowed on the credit of the land revenues of the crown, and the interest thereof: And whereas the said commissioners have from time to time, by and out of the principal monies borrowed on the security of the land revenues of the crown for the purposes aforesaid, and other the monies which came to their hands in the exercise of the powers granted to them for the purpose of effecting the said improvements, paid interest which has from time to time accrued on the sums so borrowed by them, and when such principal and other monies have for the time been exhausted they have paid such interest out of the annual income of the land revenues of the crown: And whereas it was intended that the monies which the said commissioners were so as aforesaid authorized to charge on the said fund called "The London Bridge Approaches Fund," and the interest thereon, and other the monies which should come to the hands of the said commissioners in respect of the said improvement, should be applicable to the payment, not only of all principal monies which might be borrowed on the security of the land revenues of the crown, but of all interest thereon, and to the intent that thereby the land revenues of the crown, although liable to the mortgagees for the monies charged and secured thereon, should by the means aforesaid be wholly indemnified from the payment of any part of the monies applicable to the aforesaid improvements: Be it therefore enacted, . . . that it shall be lawful for the said commissioners from time to time and at all times hereafter, to pay and apply any principal monies which they have borrowed or may hereafter borrow, or the interest arising from any investment from any such principal monies, or any other monies which shall come to their hands by reason of the premises, in discharge of the interest accruing due on any monies so borrowed or to be borrowed as aforesaid, and thereout also to reimburse and repay to the credit of the income arising from the land revenues of the crown all such sums of money as the said commissioners have paid or may hereafter pay out of such

4 & 5 Vict.
c. 40.

Regulations as to payment of interest on sums borrowed on the security of the land revenues of the crown for improvements in the Metropolis.

income for interest upon monies borrowed by them for the purposes of the said improvement.

Rights of mortgagees of land revenues of the crown not to be affected.

7. Provided nevertheless, that nothing in this Act contained shall in anywise alter or affect any security by way of mortgage on the land revenues of the crown already made, or which may hereafter be made thereof, in pursuance of the powers aforesaid, but that the same shall continue and be in all respects, as regards the rights of the mortgagees in any such mortgage, in all respects as if the provision lastly herein-before contained had not been made.

Annual report of Commissioners of Woods to be made up to 31st March.

Each report to contain a statement of debts.

Treasury rules for keeping the accounts of Commissioners of Woods.

8. [*Recital of 10 Geo. 4. c. 50. s. 125; 2 & 3 Will. 4. c. 1. s. 1.*] The annual report by the Crown Lands Act, 1829, directed to be made within thirty days after the commencement of every session of Parliament shall hereafter be made, according to the terms and provisions of the said Act, within three calendar months after the thirty-first day of March in every year . . . ; and in each of such annual reports as aforesaid a statement of all debts or debts incurred by the Commissioners of Woods, and the amount of interest due on such debt or debts, shall be laid before Parliament.

9. It shall be lawful for the Treasury . . . at any time, and from time to time, to make such rules and regulations as they shall think expedient with respect to the receipt and payment of monies by or on behalf of the Commissioners of Woods, the persons to be employed in conducting such receipts and payments, and the manner, form, and place in which the accounts of such receipts and payments shall be kept; and all such rules and regulations shall extend, not only to the monies to be received and paid in respect of the land revenues of the crown, but to all monies to be received and paid by or to the said Commissioners of Woods (and whether incorporated for any particular object or not,) or to any officer duly authorized on their behalf, under or by virtue of any Act of Parliament or otherwise; and where by any Act of Parliament now in force any monies are directed to be paid to the said Commissioners in any capacity, and whether as part of the land revenues of the crown or otherwise, or to a particular account, the same may be paid into any account, and either general or special, at the Bank of England or the Bank of Ireland, as the Treasury shall by any general or special order direct, and the receipt of the cashier of the Bank of England or the Bank of Ireland, as the case may be, shall be a sufficient discharge to the persons or bodies respectively paying the same, and without such persons or bodies being bound to inquire as to any such order or direction, and in all respects as if such monies had been paid in pursuance of the directions contained in any Act of Parliament in that behalf; and any monies now or hereafter standing to any particular account of the Commissioners of Woods, may be transferred to such other

general or separate account or accounts, or otherwise, as the Treasury shall from time to time direct.

10. It shall be lawful for the Treasury to make rules and orders from time to time as to the form in which cheques or orders for the payment of monies placed to any account of the Commissioners of Woods shall be drawn, any Act of Parliament, law, or custom whatsoever to the contrary notwithstanding; and also from time to time to authorize the said Commissioners of Woods by power of attorney from time to time to nominate and appoint one or more person or persons, in the names of them the said Commissioners of Woods, to draw cheques or orders for monies standing to the account of the said Commissioners of Woods at the Banks of England or Ireland, or otherwise (so that nevertheless such power of attorney shall continue in force until absolutely revoked, and notwithstanding any change in the commissioners appointing such attorney); and also it shall be lawful for the Treasury to authorize the Commissioners of Woods from time to time to nominate a person or persons whose duty it shall be to countersign such cheques; and any monies so placed to such account may be drawn for by such cheques, signed by such person or persons so appointed as aforesaid, and countersigned by such person or persons so appointed as aforesaid, and shall be paid and payable according to the direction in such cheques or orders contained, any Act of Parliament or other provision to the contrary notwithstanding; but nothing herein contained shall prevent the said Commissioners of Woods from drawing for any such monies as aforesaid as they are now authorized to draw, except so far as the contrary may be directed by any order of the Treasury as aforesaid.

Treasury rules as to cheques and orders for payment of money.

11. This Act shall extend to Scotland and Ireland.

Extent of Act.

[S. 12 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CX.

AN ACT to alter the Provisions relating to the Charges for the Relief of the Poor in Unions.^[1] [4th September 1848.]

[*Preamble recites* 4 & 5 *Will. 4. c.* 76.]

[S. 1 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

2. Where any poor person having a fixed place of abode in a parish in any union shall hereafter, by reason of accident, bodily casualty, or sudden illness, occurring to him while in some other parish in which he has no legal settlement, require relief, the cost of all the relief given by lawful authority in that behalf, as

Where poor persons require relief in some other parish the cost of such relief to be repaid by the parish or union chargeable.

[¹ Short title, "The Poor Law Amendment Act, 1848." See 55 & 56 *Vict. c.* 10.]

well medical as otherwise, shall, if the poor person be at the time in receipt of relief, be paid or reimbursed in like manner and by the same union or parish as any other relief shall be then payable, but if he be not then in receipt of relief, it shall be paid or reimbursed, as the case may require, by the parish in which such poor person shall then have his place of abode, unless by reason of any provision of the law he would, if otherwise chargeable, have been chargeable to the common fund of such union, in which case the payment or reimbursement shall be made by the guardians of the union comprising such parish, and shall be charged to the common fund of the union; and it shall be lawful for the guardians of any union, if they think proper, to pay for any medical or other assistance which shall be rendered to any poor person on the happening of any accident, bodily casualty, or sudden illness, although no order shall have been given for the same by them or any of their officers, or by the overseers, and to charge the same to some one parish in the union, or to the common fund of the union, according as such parish or union would have been liable for the ordinary relief of such poor person; provided that nothing herein contained shall exempt the guardians of the union or parish, or their officers, or the overseers of the parish, in which such poor person shall require relief by reason of such accident, bodily casualty, or sudden illness, from their liability to supply the requisite relief to such poor person whilst in such union or parish.

[S. 3 (as to irremovability under 9 & 10 Vict. c. 66) and s. 4 (as to appeals on questions of irremovability to the Commissioners for administering the laws for the relief of the Poor in England) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Emigration of
paupers
rendered
irremovable by
9 & 10 Vict.
c. 66.

5. The guardians of any union or parish may, with the order of the said commissioners and in conformity with such regulations as they shall make, procure or assist in procuring the emigration of any poor person rendered irremovable by virtue of the provisions of the Poor Removal Act, 1846, and chargeable, or who would, if relieved, be chargeable, upon the common fund of such union, or, in the case of any parish not comprised in a union, who may, though not settled therein, be irremovable as aforesaid therefrom; and such guardians shall, in the case of a union, charge the costs and expences incurred in such emigration upon the common fund, and, in the case of a parish not in a union, upon the monies in their hands for the relief of the poor.

[S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Valuation of
property
alleged to be
rateable.

7. The guardians of any union may, on the application of the major part of the overseers of any parish comprised in it, or of any person assessed to the poor rate in any such parish, cause a valuation to be made at any time of any property alleged to be rateable to the relief of the poor, being a part only of the rateable property of such parish, and may charge the expences

of such valuation to the overseers of such parish, or to such person so applying as aforesaid.

8. The guardians of any union shall be entitled to obtain orders of maintenance upon the relations liable under any statute now in force to maintain any poor person whose relief would be chargeable to the common fund of the union, in like manner as the churchwardens and overseers of any parish can now obtain the same, and may expend in respect of such person, out of such fund, any money for any purpose which the overseers of the parish to which such person, if chargeable, would have belonged might have done; and all relief to be granted by the guardians to any pauper upon loan, and which shall be chargeable to the common fund of the union, or to any parish therein, may be recoverable in the county court or other court for the recovery of small debts for the district wherein the union or the major part thereof shall be comprised, on the plaint of the said guardians, who may apply and be heard in such court by any officer appointed by them for such purpose, in manner prescribed by the statutes enabling them to appoint officers to act for them: Provided nevertheless, that the remedy already provided by law for the recovery of the relief granted on loan shall be in force and applicable to the relief so chargeable to the common fund as aforesaid.

Orders of maintenance against relatives.

9. If any person herein-before made chargeable upon the common fund of the union shall be convicted before any justice of any offence committed in any workhouse while maintained therein, or of deserting or running away from any workhouse, and carrying away clothes or other property therefrom, and be liable to be committed to any gaol or house of correction, the justice before whom such person shall be convicted may commit such person to the gaol or house of correction of the county or place containing the parish in which such person, if chargeable to the common fund by reason of being exempt from removal under the statute herein-before mentioned, shall have been residing when admitted into the workhouse, or to that of the county or place comprising the major part of such union, in the case of any other person herein rendered chargeable on the said common fund, notwithstanding such workhouse may not be situated in such county or place, or that such justice may not be a justice of such county or place; and the charges of the conveyance of such person to such gaol or house of correction, and all other charges consequent upon such committal, shall be borne by such county or place, in like manner as the charges of persons committed in the ordinary mode to the gaol thereof shall be borne.

Gaols to which convicted paupers may be sent.

9 & 10 Viet. c. 66.

10. Upon application for relief, by admission to the workhouse of any such union as aforesaid, or otherwise, by any poor person professing to be a destitute wanderer or wayfarer, the master, porter, or other officer of such workhouse, or the relieving

Application of monies found on paupers.

officer of such union or overseer of any parish to whom such application for relief shall be made, may search such person, or cause him to be searched, and may take from such person any money which shall be found upon him, and shall deliver the same to the guardians, to be by them applied in aid of the common fund of the union; and every person who shall apply for relief at any workhouse, or to any relieving officer or overseer, having at the time of such application in his possession and under his immediate control any money or other property, of which, on inquiry made by the guardians or their officers, or by overseers, he shall not make correct and complete disclosure, shall be taken to be an idle and disorderly person within the meaning of the Vagrancy Act, 1824, and shall be punishable and dealt with in all respects, and with the like proceedings, as idle and disorderly persons under the said Act.

5 Geo. 4. c. 83.

Certificate of chargeability under 7 & 8 Vict. c. 101, deemed sufficient evidence for 21 days.

11. In any court, and before any justice or justices, and for all purposes, a certificate of the chargeability of any person named therein, in the form prescribed in the schedule marked C. to the Poor Law Amendment Act, 1844, and purporting to have been executed in the manner prescribed by that Act, shall be received within the space of twenty-one days from the date thereof as sufficient evidence of the chargeability of the person named therein, unless the contrary be otherwise shown.

Interpretation.

4 & 5 Will. 4. c. 76.

12. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it.

[S. 13 *rep.* 38 & 39 *Vict. c.* 66 (S.L.R.)]

CHAPTER CXI.

AN ACT to amend an Act of the Tenth Year of Her present Majesty, for amending the Laws relating to the Removal of the Poor. [4th September 1848.]

[*Preamble recites 9 & 10 Vict. c. 66. s. 1, and that doubts are entertained as to the meaning of the last of the two provisos.*]

Proviso in 9 & 10 Vict. c. 66. s. 1, as to removal of wives and children, repealed, and another substituted.

[1.] Be it enacted that the said last proviso be repealed, and that instead thereof the following be enacted: Provided always, that whenever any person should have a wife or children having no other settlement than his or her own, such wife and children should be removable from any parish or place from which he or she would be removable, notwithstanding any provisions of the said recited Act, and should not be removable from any parish or place from which he or she would not be removable by reason of any provision in the said recited Act.

[S. 2 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CXIII.

AN ACT for the further Amendment of the Acts relating to the
Dublin Police. [4th September 1848.]

[*Preamble recites inter alia 37 Geo. 3 (I.) c. 58 as to "hackney and other carriages plying in the city of Dublin," &c. ; 48 Geo. c. 140 ; and particularly the provisions of those Acts requiring the superintendent magistrate and divisional justices to retain and employ certain clerks and other officers.*]

[1.] The power of appointment of all such clerks and officers as aforesaid, and of all other clerks in the police department of the police district of Dublin Metropolis, or in the department relating to such hackney or other carriages as aforesaid, or to the receipt of rents, fines, penalties, or monies in respect of the same, shall be vested in the chief secretary or the under secretary for the time being of the lord lieutenant, and not in the divisional justices or any of them.

Appointment
of clerks and
officers in
Dublin Police
offices vested
in the chief or
under secre-
tary.

[*Ss. 2, 3 rep. 41 & 42 Vic. c. 79. (S.L.R.)*]

CHAPTER CXVIII.

AN ACT to explain and amend . . . the Law respecting
Proceedings for Duties and Penalties under the Post Horse,
Stage, and Hackney Carriage Acts in the United Kingdom.
[4th September 1843.]

[*Preamble recites 55 Geo. 3. c. 19 ; 7 & 8 Vict. c. 67.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

2. . . . all duties imposed . . . for and in respect of passengers conveyed upon railways, by an Act of the fifth and sixth years of the reign of her Majesty, intituled "An Act to repeal the duties payable on stage carriages and on passengers conveyed upon railways, and certain other stamp duties in Great Britain, and to grant other duties in lieu thereof ; and also to amend the laws relating to the stamp duties," . . . all which several duties are declared by law to be duties of excise, and placed under the collection and management of the Commissioners of Excise, and all penalties, fines, and forfeitures imposed by the said recited Acts or any of them, or by any other Act or Acts of Parliament relating to the several duties or any of them, may, by order of the Commissioners of Excise, be collected, sued for, recovered, levied, mitigated, paid, and applied, as by the said recited Acts or any of them, or by any of the Acts aforesaid, is directed, or by the same ways, means, and methods, and in like manner, and under the same general or special powers, provisions, regulations, and directions, as to appeal, and in all other respects, as any other duties of excise, or any fines, penalties, or

Duties and
penalties
under
5 & 6 Vict.
c. 79.

may be
collected and
sued for, &c.
under that
Act,

or under
7 & 8 Geo. 4.
c. 53,
4 & 5 Will. 4.
c. 51, and
amending
Acts.

Limitation of
informations
for excise
penalties.

forfeitures in such respect, are directed to be collected, sued for, recovered, levied, mitigated, paid, and applied, under the Excise Management Act, 1827, as amended by the Excise Management Act, 1834, (except so far as the same is afterwards repealed by this Act,) and as amended by any other Act or Acts relating to the collection and management of the duties of excise, . . .

3. [*Repeal of 4 & 5 Will. 4. c. 51. s. 19. in part*] . . . every information exhibited by order of the Commissioners of Excise for the recovery of any penalty imposed, or for the condemnation of any seizure made as forfeited, under or by virtue of any Act or Acts relating to any duties under the collection and management of the Commissioners of Excise or of the Commissioners of Customs, may be exhibited before the . . . justice or justices of the peace at any time within six calendar months after the offence or offences alleged in such information have been committed, or the goods, commodities, chattels, or things therein alleged to have been forfeited have been seized, and all such proceedings shall be afterwards had thereupon as by law directed, anything in any other Act or Acts of Parliament to the contrary thereof notwithstanding.

CHAPTER CXIX.

AN ACT to simplify the Forms of Certificates under the Act authorizing the Advance of Money for the Improvement of Land by Drainage in Great Britain.^[1]

[4th September 1848.]

[*Preamble recites 9 & 10 Vict. c. 101 and amending Act 10 & 11 Vict. c. 11.*]

In subsequent
certificates for
advances,
the lands may
be specified
by reference
to first certi-
cate.

[1.] Where more than one certificate for an advance under the said Acts or either of them shall be issued in respect of the works referred to in the same provisional certificate, it shall not be necessary in the second or any subsequent certificate for an advance in respect of such works to specify the land in respect of which such advance is to be made, except by way of reference to the specification in the first certificate of advance, as herein-after mentioned, but it shall be sufficient that such second and every subsequent certificate shall certify that the land to be charged in respect of the advance under such certificate is the land which is specified in the first certificate of advance in respect of the works referred to in the same provisional certificate, and shall state the date of such first certificate, and the sum which the commissioners shall have therein certified should be issued.

Cancellation of
certificate.

2. It shall be lawful for the commissioners, where they shall think fit, with the approval of the Treasury, notified by one of

[¹ Short title, "The Public Money Drainage Act, 1848." See 55 & 56 Vict. 10.]

their secretaries, by any memorandum in writing under the seal of the commissioners to cancel any certificate for an advance under the said Acts upon which no advance shall have been actually made, and thereupon such certificate shall be wholly void; and it shall be lawful for the commissioners to proceed as if no such certificate had been made or issued.

3. Provided always, that where any such certificate which shall have been so cancelled as aforesaid shall have been registered in the general or particular register of sasines in Scotland, the said commissioners shall and may deliver to the owner of the lands, or the party to whom such certificate so cancelled as aforesaid was granted, or other party interested, a duplicate of the said memorandum of such cancellation, and such owner or party shall cause the said memorandum to be duly registered in the general or particular register of sasines in which such cancelled certificate was registered, and the keeper of such register is hereby authorized and required to register the same accordingly, and to grant an indorsement on the said memorandum, certifying that the same has been duly registered.

Where cancelled certificate registered in Scotland, memorandum of cancellation to be registered.

4. This Act and the said recited Act shall be construed together as one Act.

Construction.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER CXX.

AN ACT to facilitate the Transfer of Landed Property in Ireland. [4th September 1848.]

[Preamble.]

[1.] [1] The registrar of deeds and the registrar of judgments in Ireland for the time being shall and they are hereby required, previous to giving out of said office any negative search, to cause a copy of such negative search to be entered on parchment in books to be provided for the purpose, and to be kept in their offices respectively among the records thereof.

Registrar of deeds, previous to giving out any negative search, to cause copy to be recorded.

2. Every book wherein any such copy of a negative search and certificate as aforesaid shall be entered shall be numbered or otherwise distinguished in some appropriate and convenient manner, and the pages of each such book shall be numbered consecutively, and the number or other distinctive mark of every such book, and the number or numbers of the page or pages thereof, wherein any such negative search and certificate shall be copied, shall be specified at foot of the certificate, signed by the registrar or assistant registrar in manner following; (that is to say,) "Copied in Book, No. , Page , Number ."

Books of copies of negative searches.

[1 S. 1 is rep, so far as relates to the registrar of judgments only, 34 & 35 Vict. c. 72. s. 1.]

Indexes to be provided for books of copies of negative searches.

3. The said registrars for the time being shall and they are hereby required respectively to cause a sufficient index or sufficient indexes to be prepared, in such form as the Treasury shall from time to time direct, to the books containing the copies of searches made pursuant to this Act; and in such indexes shall be entered, in some convenient manner for reference, the name or names of some one or more of the persons whose acts such negative search shall relate to; and the said registrar of deeds shall also cause to be prepared another sufficient index or other sufficient indexes to the said books containing the said copies of the said negative searches, in such form as the Treasury shall from time to time direct, wherein shall be entered, in some convenient form for reference, the name or names of some one or more of the denominations of land mentioned in the requisition for such negative search; and all persons shall be at liberty to search the said books, on payment of the fee mentioned in the schedule hereunto annexed.

Power to search books.

Attested copies of recorded searches.

4. Every person requiring the same shall be entitled to an attested copy of any search so recorded as aforesaid, or any portion thereof, upon payment of the fees mentioned in the schedule hereunto annexed; and the registrar or assistant registrar of deeds . . . in Ireland for the time being, upon being furnished with a specific requisition, shall cause to be delivered to the person making such requisition an attested copy of every such recorded negative search, or the portion thereof in such requisition mentioned; and all the penalties and liabilities to which such registrars and assistant registrars are liable in respect of fraud, collusion, or neglect in making the original searches and certificates shall extend to the attested copies to be given under this Act.

Validity of such copies.

5. Every such attested copy of every such recorded negative search and certificate, so signed as aforesaid, shall have the same force and effect, and shall be accepted and received in the same manner and for the same purposes, as an original negative search or certificate to the same extent and in the same terms.

Fees to be accounted for as under the Acts regulating the registry offices.

6. [1] The fees payable to the said registrar of deeds and registrar of judgments under this Act shall be deemed and taken to be part of the fees payable to them under the acts for the regulation of their respective offices, and shall be applied and accounted for according to the provisions of said Acts.

Regulation of indexes by Treasury.

7. [*Recital as to alphabetical indexes of names of persons and of lands under 2 & 3 Will. 4. c. 87.*] It shall and may be lawful for the Treasury, by an order, from time to time to make

[1 By 13 & 14 Vict. c. 74. s. 3., it is enacted, that the fees authorized and made payable under and by virtue of the Act 7 & 8 Vict. c. 90, and this Act in the office of registrar of judgments shall cease; and by s. 7 of the same Act all the provisions in the Act 7 & 8 Vict. c. 90, and this Act contained, requiring the said registrar to made application of the fees of his office by payment of salaries and compensations and otherwise, and to account for and lodge balances as in the said Acts directed, are repealed and annulled.]

any alterations in the forms of the indexes of names and lands directed by said recited Act to be made, and to order that a sufficient index or indexes shall be prepared to the several books in the office of the said registrar of judgments; and from the time of making any such order, or from any time to be specified therein, the said indexes shall be made and kept in such manner and form as the Treasury shall in such order specify and direct; and it shall and may be lawful for the Treasury in like manner to vary or rescind any such order as aforesaid.

8. It shall and may be lawful for the Treasury, from time to time to order and direct that any expence which may appear to them to be requisite for or to be necessarily and properly incurred in carrying the purposes of this Act into effect shall be defrayed out of the balances on the accounts of the said registrars in respect of the said register offices, or in such other manner as the said commissioners shall think fit to direct.

Payment of
expences out
of balances, &c.

9. [1] For and in respect of the entries, endorsements, certificates, and other matters or acts hereby directed or required to be performed the officers discharging said duties shall respectively be entitled to demand and receive the several fees specified in the schedule to this Act annexed, which schedule, and all directions therein contained, shall be deemed and taken to be part of this Act; and it shall and may be lawful for the Treasury by order from time to time to alter and vary the fees specified in the said schedule, and to substitute other fees therefor.

Fees.

10. [Recital of 7 & 8 Vict. c. 90.] The registrar of judgments for the time being shall, upon the lodgment with him of a certificate of the entry of satisfaction upon the roll of any judgment of any of the superior courts of common law which may have been registered under said recited Act, or which may appear upon the books of revivals and redocketings which under the provisions of said recited Act were transferred to said registrar, signed by the proper officer of such superior court of common law, or upon the lodgment with him of the certificate of the cancelling or vacate of any bond or recognizance to the crown, signed by the proper officer in that behalf, and which certificate such officers are hereby authorized and required respectively to give, cause a memorandum of such satisfaction, cancelling, or vacate to be subscribed to the entry of the registry of such judgment, or of the revival or redocketing thereof, or of such crown bond or recognizance, specifying the date at which such satisfaction, cancelling, or vacate appears by such certificate to have been entered on record, and shall sign such memorandum, . . . ; and upon every search made in the said judgment office subsequently to the entry of such memorandum as aforesaid, whereon

Memorandum
of satisfaction
of judgment,
&c.

[1 See note to s. 6.]

such judgment, crown bond, or recognizance shall appear, the entry of such memorandum shall be stated.

Certificate of
decree, &c.
having been
complied with,
&c.
3 & 4 Vict.
c. 105.

11. Every court, judge, commissioner, or other person by whom any decree, rule, or order has been or shall be pronounced or made, which under the Debtors (Ireland) Act, 1840, has the force and effect of a judgment, upon its being made to appear to them or him that such decree, rule, or order, has been fully performed, complied with, or satisfied, shall direct the proper officer to give a certificate thereof, and record the same in his office; and in case said decree, rule, or order shall have been or shall be registered under the provisions of the Debtors (Ireland) Act, 1840, or under the provisions of the said recited Act of the seventh and eighth years of the reign of her Majesty, the registrar of judgments shall, upon the lodgment with him of such certificate, cause a memorandum thereof to be annexed or subscribed to the entry of the registry of such decree, rule, or order, specifying therein the date of such certificate, and shall sign such memorandum, . . . ; and in every search made in said judgment office after the entry of such memorandum, whereon such decree, rule, or order shall appear, the entry of such memorandum of satisfaction shall also be stated.

3 & 4 Vict.
c. 105.
7 & 8 Vict.
. 90.

No judgment,
&c. to be
registered
under 7 & 8
Vict. c. 90,
until certificate
of the existence
of such judg-
ment, &c. has
been lodged.

12. No judgment, crown bond, or recognizance, rule, decree, order, or *lis pendens*, shall be registered by the said registrar of judgments, pursuant to the provisions of the said Act of the seventh and eighth years of the present reign, unless and until there shall be subscribed to the memorandum or minute by said Act required to be left with said registrar a certificate of the existence of the judgment, crown bond, or recognizance, rule, decree, order, or *lis pendens*, described in said memorandum or minute, such certificate to be signed by the proper officer of the court in which such judgment, crown bond, or recognizance, rule, decree, order, or *lis pendens*, shall have been entered or obtained; . . .

After 1st
January 1849,
crown bonds
and recogni-
zances then
filed as of
record, and
more than 20
years old,
shall not affect
purchasers or
mortgagees,
unless re-
docketed.

13. [*Recital of 7 & 8 Vict. c. 90. s. 11.*] From and after the first day of January next no bond or recognizance to the crown filed as of record in Ireland which shall be more than twenty years old from the date thereof shall affect any lands, tenements, or hereditaments, as to purchasers or mortgagees or creditors, unless and until a memorandum or minute, duly authenticated, containing the name and usual or last known place of abode, and the title, trade, or profession, of the person whose estate is intended to be affected, the sum for which such bonds or recognizance was passed or entered into, and the date of the same, shall be left with the registrar of judgments, who shall forthwith enter the same particulars in a book to be entitled "Redocketed Crown Bonds and Recognizances," to be kept in alphabetical order, by the name of the person whose estate is intended to be affected by such bonds or recognizances; and for every such entry the said registrar shall

be entitled to the same fee as is authorized by the said Act for each entry in the book intituled "The Index of Debtors and Accountants to the Crown"; and all persons shall be at liberty to search the said book, as well as the books directed by the said Act to be kept by the said registrar, on payment of the fee by the said Act authorized.

14. And whereas by the operation of this Act the duties of certain offices may be diminished, and it will therefore be expedient, having regard to economy, to discontinue them as separate offices, and to provide for the discharge of such duties as may remain to be performed: Be it therefore enacted, that in such cases the Treasury shall have power, if they shall think fit, by their warrant to order that a consolidation of any office so affected shall take place with some existing office of the court to which it belongs; and any order made as aforesaid for the regulation of the business of such office shall be of as much force as if it had been specifically enacted herein, and the officer to whom the duties as aforesaid shall be so transferred shall have as full power and jurisdiction, for all official purposes, as were enjoyed or belonged to the officer whose duties shall be so transferred.

Consolidation
of offices.

[S. 15 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

SCHEDULE of Fees to which the foregoing Act refers. Sect. 9.

s. d.

For every attested copy of a search recorded pursuant to this Act in the office of registrar of deeds, on the certificate or attestation thereof, when such copy shall not exceed three folios of 72 words	-	-	-	-	-	1	0
When such copy shall exceed three folios, for every folio	-	-	-	-	-	0	4
For every attested copy of a search recorded pursuant to this Act in the office of registrar of judgments, on the certificate or attestation thereof, when such copy shall not exceed three folios of 72 words	-	-	-	-	-	1	0
When such copy shall exceed three folios, for every folio	-	-	-	-	-	0	4
For every other certificate directed or required by this Act, including a duplicate thereof	-	-	-	-	-	1	0
For every memorandum of satisfaction of a judgment, crown bond, or recognizance, decree, rule or order, to be subscribed or annexed to the original entry of registry in the office of registrar of judgments pursuant to this Act, including the endorsement thereof directed by this Act	-	-	-	-	-	2	6
For liberty to search the book or books in the office of registrar of deeds containing the recorded copies of negative searches	-	-	-	-	-	1	0
For liberty to search the book or books in the office of registrar of judgments containing the recorded copies of negative searches	-	-	-	-	-	1	0

CHAPTER CXXI.

AN ACT to alter the Laws and Regulations of Excise respecting the Survey of Dealers in and Retailers of Spirits, and respecting the Sale and Removal of Spirits by Permit from the Stock of such Traders; . . . [4th September 1848.]

[Ss. 1-8 *rep.* 38 & 39 *Vict. c. 66. (S.L.R.)*]

Additional
licences for
retail of foreign
liqueurs.
6 Geo. 4. c. 81.

9. Any person duly licensed as a dealer in spirits under the Excise Licences Act, 1825, may take out an additional licence authorizing such person to sell by retail any quantity (the same not being less than one reputed quart bottle, or in the bottles in which the same may have been imported) of foreign liqueurs not to be drunk or consumed upon the premises.

Duty on ad-
ditional licence
to be 2*l.* 2*s.*
annually, and
to be an excise
duty.

10. For every such additional licence there shall be paid an annual duty of excise of two pounds two shillings, which said duty shall be under the collection and management of the Commissioners of Excise, and shall be raised, recovered, paid, and accounted for, in the same manner, and under the same enactments, provisions, pains, penalties, and forfeitures, as other licence duties under the collection and management of the Commissioners of Excise are raised, recovered, paid, and accounted for.

Form and
duration of
licence.

11. Every such licence shall be in such form and shall contain such particulars as the Commissioners of Excise may direct, and shall be signed, granted, and issued by the proper officers of excise duly authorized to grant licences; and every such licence shall continue in force from the day of the date thereof until the fifth day of July following, on which day every such licence shall expire, and shall be renewed if the same business is carried on; and all the enactments, provisions, pains, penalties, and forfeitures contained in the Excise Licences Act, 1825, the reign aforesaid shall apply to and be in force in respect of the said additional licence, in the same manner as if the same had been one of the licences originally included in that Act.

Provisions of
6 Geo. 4. c. 81.
to apply to
licence.

[Ss. 12-17 *rep.* 38 & 39 *Vict. c. 66. (S.L.R.)*. S. 13 *provided for the delivery of certificate books by excise officers to dealers in and retailers of spirits, on request; see now 43 & 44 Vict. c. 24. s. 108.*]

Certificate
books to be
printed on
paper provided
under 2 & 3
Will. 4. c. 16.

18. The certificate book, prepared with proper printed forms of certificates, which by this Act is directed to be delivered by the proper officer of excise to every dealer in and to every retailer of spirits who requests the same in writing of such officer, shall be printed on paper provided under and by virtue of the Excise Permit Act, 1832, to be used in Great Britain and Ireland for permits, under and subject to the same enactments, rules, regulations, exceptions, pains, and penalties, as is or are in the said Act contained for or in respect of the same paper when used by the Commissioners of Excise for permits; and the said commissioners shall cause to be provided plates engraved with such marks, stamps, numbers, or devices, which

Commissioners
of Excise to
provide plates
and types.

they may afterwards alter, as to them seems meet, and shall also cause to be provided types cast in any particular form that they think proper for the printing, stamping, and marking the said paper for such certificates; and the said plates shall be engraven and types cast by such person or persons as the said commissioners for that purpose authorize or appoint, and the said plates so engraven, and the types so cast, shall be kept by such officer or other person as the said commissioners authorize or appoint; and every person not being so authorized or appointed by the said commissioners who engraves, casts, cuts, or makes, or causes or procures to be engraven, cast, cut, or made, or aids or assists in engraving, casting, cutting, or making, any plate or type made or used by the direction of the said commissioners for the purpose of marking or printing the paper to be used for certificates, and every person (except as aforesaid) who knowingly has in his custody or possession, without lawful excuse (the proof whereof shall lie on the person accused), any such plate or type, shall for every such offence be adjudged guilty of the like offence, and shall suffer punishment accordingly, as by the Excise Permit Act, 1832, is provided for and enacted in respect of any person adjudged guilty of a similar offence for and in respect of the plates or types provided by the said commissioners for the printing of permits; and every person who counterfeits or forges, or causes or procures to be counterfeited or forged, or assists in counterfeiting or forging, any such certificate as aforesaid, or any part of any such certificate, or counterfeits any impression, mark, or stamp, number, or device, provided or appointed by the said commissioners to be put on such certificate, or who utters, gives, or makes use of any counterfeited or forged certificate, knowing the same or any part thereof to be counterfeited or forged, or who utters, gives, or makes use of any such certificate with any such counterfeited impression, mark, or stamp, number, or device, knowing the same to be counterfeited, and every person who knowingly or willingly accepts or receives any counterfeited or forged certificate, or any certificate with any such counterfeited impression, mark, or stamp, number, or device thereon, knowing the same to be counterfeited, shall for every such offence be adjudged guilty of the like offence, and shall suffer punishment accordingly, as by the Excise Permit Act, 1832, is provided for and enacted in respect of every person adjudged guilty of a similar offence for and in respect of the plates or types provided by the said commissioners for the printing of permits: Provided always, that it shall be lawful for the said commissioners to cause the paper to be used for the printing of permits under the Excise Permit Act, 1832, or to be used for the printing of certificates under this Act, to be made of such quality or texture, or with such letters, figures, marks, or devices visible in the substance of such paper, as the said commissioners may direct, without such paper having the words "Excise Office" visible in the substance thereof; and all papers so made and used shall be subject to

Punishment
of persons
counterfeiting
plates, types,
certificates, &c.

2 & 3 Will. 4.
c. 16.

Paper to be
used need not
have the words
"Excise Office"
thereon.

the same enactments, rules, regulations, exceptions, pains, and penalties, as is or are contained in the said recited Act for and in respect of the paper to be provided as directed by that Act.

[*Ss. 19-30 rep. 38 & 39 Vict. c. 66. (S.L.R.).*]

CHAPTER CXXII.

AN ACT to amend the Laws respecting . . . the Removal of Goods subject to Excise Regulations from Customs Warehouse. [4th September 1848.]

[*Whole Act except the parts of s. 26 here printed, rep. 38 & 39 Vict. c. 66 (S.L.R.).*]

Certificate for removal of goods from bonded warehouse.

26. . . . before any goods which are subject to any regulations of excise are removed from any warehouse or place in which they are deposited for security of the duties of customs, the party intending to remove the same shall, on making due entry thereof for home consumption, deliver to the collector and comptroller of the customs one certificate or duplicate of such original entry, in case the whole of the goods included in such original entry are intended to be removed into the stock, custody, or possession of any one party, or in case it be intended to remove such goods into the stock, custody, or possession of two or more parties, then the party making such entry shall deliver to the collector and comptroller two or more certificates or duplicates, as the case may require; and each certificate or duplicate shall contain such particulars, and be arranged in such form and manner, as the collector and comptroller may require; and such certificate or certificates, duplicate or duplicates, as the case may be, shall be annexed to and retained with the original entry, until application be made for the removal of such goods, whereupon the proper officer of customs shall, in respect of such removal, endorse on the certificate or duplicate relating thereto the marks, numbers, and contents of the casks and packages so intended to be removed, and also, if any of such packages contain spirits, the degree of strength per centum thereof; and the party applying for such removal shall endorse on the certificate or duplicate relating thereto the name and address of the person to whom, or into whose stock, custody, or possession, such goods are intended to be removed; and at the time of the delivery of such goods for removal the proper officer of customs shall endorse on such certificate or duplicate the day and hour of delivery and sign his name thereto, and shall then deliver such certificate or duplicate to the party applying for the removal of such goods, in order that the same may accompany such goods into the stock, custody, or possession of the party whose name and address is endorsed on such certificate; and no such goods accompanied by such certificate or duplicate, on removal thereof direct from the warehouse to the party whose name and address

is endorsed on such certificate or duplicate, shall be liable to seizure and forfeiture, or the party removing or receiving the same to any penalty, for or by reason of such goods not being accompanied by a permit, provided such goods be conveyed within a reasonable time after the date of the delivery thereof direct from the warehouse to or into the stock, custody, or possession of the party whose name and address is endorsed on such certificate; and every person removing or receiving such goods with such certificate accompanying the same as aforesaid, or removing or receiving the same without such certificate, . . . shall be subject and liable to the same rules, regulations, penalties, and forfeitures, in respect of such certificate, as such person is subject and liable to, under and by virtue of any Act or Acts of Parliament relating to the Revenue of Excise, for or by reason of his removing or receiving the like goods with a true and lawful permit accompanying the same, or removing or receiving the same without such permit.

Persons removing or receiving such goods with or without such certificate to be liable as for removing or receiving goods with or without permit.

CHAPTER CXXXII.

AN ACT for the appointment of additional Taxing Masters for the High Court of Chancery in Ireland, and to regulate the Appointment of the principal Assistants to the Masters in the Superior Courts of Law in Ireland.

[5th September 1848.]

[*Preamble recites 8 & 9 Vict. c. 115. s. 1.*]

[1.] The taxing of costs in the High Court of Chancery in Ireland shall be conducted by officers, to be denominated "the Taxing Masters," each of whom shall hold his office during his good behaviour, and shall discharge his duties in person, except where otherwise provided by this Act, and may be removed from his office by the Lord Chancellor of Ireland for misconduct;

Tenure of taxing masters in Court of Chancery.

2. . . . the Lord Chancellor of Ireland shall have power to appoint some fit and competent person to be another additional taxing master, being a solicitor who shall for not less than ten years have practised as a solicitor of the said court; and as often as any taxing master appointed under the said recited Act or this Act, or to be appointed, or any of his or their successors, shall die or resign, or be removed from his office, the Lord Chancellor shall have power to appoint a taxing master, qualified as aforesaid, in the room of the taxing master who shall so die, resign, or be removed: . . .

Additional taxing masters.

[*S. 3 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

4. All salaries under the said recited Act or this Act shall grow due from day to day, but shall be payable on the fifth day of January, fifth day of April, fifth day of July, and the tenth

Salaries and expences.

Expenses, &c.
of offices.

day of October in every year, or on such other days as the Lord Chancellor shall from time to time by any order direct, and shall be paid to the parties entitled thereto, or their respective executors or administrators, by the Treasury, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland; and the expence necessarily incurred for hiring suitable offices for the business of such taxing masters, and also for the necessary books, stationery, and binding of books of costs, and other incidental expences of the said offices, including such expences of the nature aforesaid as have heretofore been incurred in the office of the taxing master, but were not provided for by the said recited Act, shall likewise be paid out of the said Consolidated Fund.

[*Ss. 5, 6 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

Annual return
of untaxed
bills.

7. Each of the said taxing masters shall make out and present to the Lord Chancellor an annual return, made up to the thirty-first day of December preceding, containing a statement of the number of untaxed bills of costs lodged with him for taxation during the year next preceding, and of the aggregate amount of the sums included in such bills of costs, also a statement of the number of bills of costs taxed by him during such preceding year, and of the aggregate amount of the sums included in such bills of costs, and also a statement of the number of bills of costs so lodged with him and remaining untaxed at the end of such year, and of the aggregate amount of the sums included in such last-mentioned bills of costs, together with such further information as to the business of the said office as the Lord Chancellor may from time to time require.

[*S. 8 rep. 54 & 55 Vict. c. 67. (S.L.R.) S. 9 rep. 38 & 39 Vict. c. 66. S.L.R.*]

12 & 13 VICTORIA. A.D. 1849.

CHAPTER I.

AN ACT to consolidate the Boards of Excise and Stamps and Taxes into One Board of Commissioners of Inland Revenue, and to make provision for the Collection of such Revenue.

[27th February 1849.]

[*Whole Act except s. 16 rep. 53 & 54 Vict. c. 21 s. 40.*]

16. And whereas under and by virtue of divers Acts of Parliament now in force certain licences are required to be taken out and obtained from the Commissioners of Excise and the Commissioners of Stamps and Taxes respectively by persons using, exercising, or carrying on certain trades, professions, callings, occupations, or businesses, or trading or dealing in, or vending, selling, or retailing, certain goods, wares, or commodities, or keeping or using certain articles, and by other persons and for

other purposes in the said Acts specified; and it is expedient to provide for the granting and signing of such licences: Be it enacted, that all or any of such licences as aforesaid shall and may lawfully be granted and signed by such person or persons as the Commissioners of Inland Revenue shall appoint or authorize in that behalf; and every such licence which shall be so granted and signed shall be as valid and effectual, for all purposes whatsoever, as it would have been if the same had been granted or signed by or under the hands and seals of the said Commissioners of Inland Revenue, or any number of them, any thing in any Act or Acts contained to the contrary thereof in anywise notwithstanding.

Power to
Commissioners
to appoint
person to
grant and
sign licences.

CHAPTER IV.

AN ACT to amend the Laws relating to the Appointment of Vice Guardians of Unions in Ireland. [9th March 1849.]

[*Preamble recites provisions of 1 & 2 Vict. c. 56 and 10 & 11 Vict. c. 31, which authorize the Commissioners for Administering the Laws for the Relief of the Poor in Ireland, in certain cases, to dissolve Boards of Guardians.*]

[*Ss. 1, 2 rep. 38 & 39 Vict. c. 66 (S.L.R.)*]

3. It shall be lawful for the said commissioners at all times, in any case in which the board of guardians of a union shall have been heretofore or shall be at any time hereafter dissolved, and in which paid officers shall have been or shall be appointed as aforesaid, to issue an order under their seal directing the discontinuance in office of such paid officers, and the re-election of a board of guardians; and on the issue of such order under the seal of said commissioners such election of a board of guardians shall take place according to the directions of the said commissioners, and all the powers and authorities of such paid officers shall cease and determine at the time fixed for that purpose in the order of the said commissioners; . . .

Reconstitution
of dissolved
board of
guardians.

[*S. 4 rep. 38 & 39 Vict. c. 66, (S.L.R.)*]

CHAPTER VIII.

AN ACT to remove Doubts as to the Appointment of Overseers in Cities and Boroughs. [22d March 1849.]

[*Preamble recites 43 Eliz. c. 2.*]

[1.] In every city, town corporate, or borough, the justices of the peace having jurisdiction therein shall have the exclusive right of appointing the overseers of the poor of the several parishes, townships, or other places separately maintaining their

Justices in
cities and
boroughs to
appoint over-
seers of
parishes.

own poor, or of any parts thereof, within the said cities, towns corporate, and boroughs respectively, in like manner and with the same effect as the justices of any county now have in respect of the overseers of the poor of any parish within such county, and they are hereby required from time to time to make such appointments accordingly.

[*Ss. 2, 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Act not to apply to city of London or places under local Acts.

4. This Act shall not apply to the city of London, nor to any of the parishes comprised therein, nor to the appointment of the overseers of any parish, township, or place, where such appointment is regulated by the provisions of any local Act.

[*S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XIII.

AN ACT to provide a more effectual Regulation and Control over the Maintenance of poor Persons in Houses not being the Workhouses of any Union or Parish. [11th May 1849.]

[*Preamble.*]

Regulations for management of houses where poor persons are maintained under contract with guardians, &c., or for education of children.

[1.] It shall be lawful for the Commissioners for Administering the Laws for Relief of the Poor in England, and they are hereby required, from time to time as they shall see occasion, to make and issue all such rules, orders, and regulations, for the management and government of any house or establishment wherein any poor person shall be lodged, boarded, or maintained, for hire or remuneration, under any contract or agreement entered into by the proprietor, manager, or superintendent of such house or establishment, or on his behalf, with any guardians, overseers, or other persons having the ordering or management of the poor in any union or parish, or for the education of any poor children therein, in like manner and to the same extent as the said commissioners are by law empowered to do in the case of any workhouse belonging to any union or parish; and all such rules, orders, and regulations shall have the like effect as other rules, orders, and regulations of the said commissioners, and shall be obeyed accordingly, with the like penalties on any neglect or disobedience thereof, to be enforced upon summary conviction, as penalties under the Poor Law Amendment Act, 1834, may now be enforced.

4 & 5 Will. 4. c. 76.

Nothing herein to extend to asylums, hospitals, &c.

2. Provided nevertheless, that nothing herein contained shall extend to any county lunatic asylum, or hospital registered or house licensed for the reception of lunatics, nor to any hospital, infirmary, school, or other institution, supported by public subscriptions, and maintained for purposes of charity only.

Regulations may be directed

3. The said commissioners may direct their rules, orders, and regulations to any person being or acting as the proprietor,

manager, or superintendent, or as an officer or assistant, in any such house or establishment as aforesaid, and the same shall come into operation so soon as the said commissioners shall therein declare, and shall be binding upon the person named therein, and, if they shall so direct, upon every person who shall afterwards succeed to him in the same capacity.

to any proprietor, manager, or officer of the house.

4. The said commissioners shall be empowered, if at any time they shall see just cause, to prohibit, by order under their seal, the reception or retention of any poor person, or any class of poor persons, in any such house or establishment, and thereupon it shall not be lawful for any such proprietor, manager, or superintendent, or other officer or assistant, to receive or retain any poor person therein, contrary to the terms of such order, so long as it shall be in force, nor for any guardians, overseers, or other such persons as aforesaid, to send any poor person to such house or establishment, contrary to such order; provided that no such guardians, overseers, or other such persons as aforesaid, nor any officer of any union or parish, shall incur any legal responsibility in respect of the neglect of such order until a copy thereof shall have been sent to the guardians of the union or parish, or to the overseers of the parish, or other such persons as aforesaid, in the manner in which orders of the said commissioners are now sent to guardians or overseers.

Power to prohibit the reception of poor persons, or any class of poor persons, in any such house.

5. The said commissioners may, by order under their seal, remove from his office or service any officer, servant, or assistant in any such house or establishment whom they shall deem unfit or incompetent to discharge the duties of his situation, or who shall at any time refuse or wilfully neglect to obey and carry into effect any of the rules, orders, or regulations issued by the said commissioners under their seal for the regulation of such house or establishment, or of the officers or inmates thereof; and thereupon such officer, servant, or assistant shall forthwith cease to act in his office, service, or employment, and shall be entitled to claim and recover a rateable proportion of his salary, wages, or other remuneration, up to the time of his being so removed, but no more, from the person liable to pay the same, subject to any defence at law which may then be open to the person from whom the same shall be claimed.

Power to remove any officer of such house.

6. The said commissioners may from time to time issue any order which they may deem necessary for regulating the mode in which any contract shall be entered into for the lodging, boarding, or maintenance of any poor person with the proprietor, manager, or superintendent of such house or establishment as aforesaid, or the terms or the duration of any such contract; and if after the issuing of any such order any contract or agreement be entered into with such proprietor, manager, or superintendent, or any person on his behalf, not in accordance with such order, the same shall be voidable, and, if the said commissioners shall so direct, the same shall be void and of no effect: and all payments

Poor Law Board orders regulating contracts with proprietors, &c. of such houses.

made under or in pursuance of any contract or agreement not made and entered into in conformity with such order as aforesaid, at any time after the said commissioners shall have declared the same to be void as aforesaid, and shall have given notice of such declaration to the guardians, overseers, or other such persons as aforesaid, shall be disallowed in the passing and auditing of their accounts, or the accounts of any of their officers by whom such payments shall have been made or charged.

Inspection of
such houses.

7. The said commissioners may, if they think fit, appoint a person, either temporarily or permanently, to visit any such house or establishment, and to inspect the same, and the poor persons received and maintained therein, and to make a report to such commissioners upon any visit and inspection; and such person shall be paid by the guardians or overseers, as the case may be, of the several unions or parishes from which poor persons shall have been sent, and shall be at the time of such visitation maintained therein, such remuneration as the said commissioners shall by order under their seal direct.

Power to
justices to
visit such
houses.

4 & 5 Will. 4.
c. 76.

8. It shall be lawful for any justice of the peace acting in and for the jurisdiction in which such house or establishment shall be situated to visit, inspect, and examine the same, at such times as he shall think proper, for the like purpose and with the same power as any justice has now, by virtue of the Poor Law Amendment Act, 1834, in respect of the workhouse of any union or parish; . . .

Construction.
4 & 5 Will. 4.
c. 76.

9. The several words used in this Act shall be construed in the same manner as in the Poor Law Amendment Act, 1834, and the statutes explaining and amending it; and all the provisions, enactments, and regulations contained in the said Act and the said subsequent statutes shall be extended to this Act, so far as the same may be applicable, and subject to the provisions herein contained.

Extent of Act.

10. This Act shall extend only to England and Wales.

[S. 11 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XIV.

AN ACT to enable Overseers of the Poor and Surveyors of the Highways to recover the Costs of distraining for Rates.

[11th May 1849.]

[*Preamble.*]

Costs of
obtaining
warrant of
distress for
poor rate.

[1.] It shall be lawful hereafter for all justices of the peace, if in their discretion they shall so think fit, in any warrant of distress they shall make and issue for the levying of any sum or sums to which any person or persons is or are now or may

hereafter be rated or assessed in or by any rate or assessment for the relief of the poor, or for the highways, in England or Wales, or in or by any other rate or assessment which by law now or hereafter is or shall be directed to be enforced or recovered in the same manner as a poor rate, or in any warrant for the levying of any arrears of the same, to order that a sum, such as they may deem reasonable, for the costs and expences which such over-seers or surveyors, or the persons applying for such warrant, shall have incurred in obtaining the same, shall also be levied of the goods and chattels of the person or persons against whom such warrant shall be granted, together with the reasonable charges of the taking, keeping, and selling of the said distress.

2. [*Recital of 43 Eliz. c. 2. s. 2.*] when to any warrant of distress for the levying of any sum or sums to which any person or persons may hereafter be rated or assessed in or by any rate or assessment herein-before mentioned it shall be returned by the constable or person having the execution of such warrant that he could find no goods or chattels, or no sufficient goods or chattels, whereon to levy such sum or sums, together with the costs of or occasioned by the levying of the same, it shall be lawful for any two or more justices of the peace before whom the same shall be returned, or for any two or more justices of the peace for the same county, riding, division, liberty, city, borough, or place, if in their discretion they shall so think fit, to issue their warrant of commitment against the person with relation to whom such return shall be so made as aforesaid, in the form (D.) in the Schedule to this Act annexed, or in any form to the like effect, and thereby order such person to be imprisoned in the common gaol or house of correction for any time not exceeding three calendar months, unless the sum or sums therein mentioned shall be sooner paid; and every such warrant of commitment made or issued for default of distress as aforesaid shall be made as well for the nonpayment of the costs and expences so as aforesaid incurred in obtaining such warrant of distress, if the same shall be so ordered as aforesaid, and the costs attending the said distress, and also the costs and charges of taking and conveying the party to prison, (the amount of such several costs, expences, and charges being stated in such warrant of commitment,) as for the nonpayment of the sum or sums alleged to be due for the said rates respectively.

In default of distress for nonpayment of rates, justices may issue warrant of commitment.

3. For the saving of expence in the levying of any sum or sums for rate and costs as aforesaid it shall be lawful to make and issue one warrant of distress against any number of persons neglecting or refusing to pay the same, in the form in the schedule to this Act annexed; but nothing herein shall be deemed or construed to authorize justices in like manner to grant or issue one warrant of commitment against several persons in default of distress as aforesaid.

One warrant of distress may be issued against any number of persons.

To whom
warrants shall
be directed.

4. The warrants aforesaid may be directed to the churchwardens and overseers of the poor, or the overseers of the poor, or the surveyors of the highways, respectively, and to the constable of the parish or township, and to any other person or persons, or to any one or more of them, as by the justices granting the same shall be deemed fit.

Summons for
nonpayment
of rate.

5. Every summons to be issued against any person for non-payment of any sum for which he or she is or shall be so rated or assessed as aforesaid shall be directed to such person, and may be in the form (B.) in the schedule to this Act annexed, or in any form to the like effect; and the same may be served by any churchwarden or overseer of the poor, or surveyor of the highways, respectively, or constable or other person, to whom it shall be delivered for that purpose, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him or her at his or her last place of abode; and the person who shall serve the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of the said summons; and if upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justices then present that such summons was duly served as aforesaid a reasonable time before the time so appointed for his or her appearance as aforesaid, it shall be lawful for such justices of the peace, in their discretion, if they shall so think fit, to proceed *ex parte*, in the same manner, to all intents and purposes, as if such party had personally appeared before them in obedience to the said summons.

On payment
of rate and
costs, pro-
ceedings to
cease.

6. In all cases where any proceedings shall be taken to compel payment of any sum for which any such person shall be so rated or assessed as aforesaid, if at any time before such person shall be committed to and lodged in prison for nonpayment thereof, or for or by reason of its being returned to such warrant of distress as aforesaid that there are no goods or chattels or no sufficient goods or chattels of such person whereon the same may be levied as aforesaid, such person shall pay or tender to the churchwardens or overseers of the poor, or any of them, or to the surveyor of highways, respectively, or other person authorized to collect or receive such rate, the sum so sought to be recovered, together with the amount of all costs and expences up to that time incurred in the proceedings so taken to compel payment thereof as aforesaid, then and in every such case the person to whom such sum and costs shall be so paid or tendered shall receive the same, and thereupon no further proceedings for the recovery of the same shall be had or taken.

[*S. 7 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

8. The forms in the schedule to this Act contained, or forms to the same or the like effect, shall be deemed good, valid, and sufficient in law. Forms in
schedule valid.

[S. 9 rep. 47 & 48 Vict. c. 43. s. 4.]

SCHEDULE.

(A. 1.)

Complaint of the Overseers or Surveyors against One Rate-payer.

{ BE it remembered, that on the day of
to wit. } in the year of our Lord , the [churchwardens
and overseers of the poor, or the surveyors of the highways] of the
parish of , in the county of aforesaid, by
C.D., one of the said [overseers or surveyors], complain to the under-
signed, [one] of her Majesty's justices of the peace in and for the said
[county], that *A.B.*, of the said [parish], being a person duly rated and
assessed to [the relief of the poor, or the maintenance of the highways]
of the said parish, in and by a rate* made on the day of
 , in the year , in the sum of ;
hath not paid the same or any part thereof, but hath refused so to do :
Wherefore the said [churchwardens and overseers or surveyors], by
C.D. aforesaid, pray that the said *A.B.* may be summoned to appear
before two of her Majesty's justices of the peace, to show cause why he
hath not paid and refuses to pay the said sum.

C.D.

Made and exhibited before me, ,
at , in the county of ,
on this day of , 1849.
 E.F. }

* Or, in and by several rates made on and on
 , in the several sums of , and of .

(A. 2.)

Complaint against several Rate-payers.

{ BE it remembered, that on the day of ,
to wit. } in the year of our Lord , the [churchwardens
and overseers of the poor, or the surveyors of the highways] of the
parish of , in the [county] of aforesaid, by
C.D., one of the said [overseers or surveyors], complain to the under-
signed, [one] of her Majesty's justices of the peace in and for the said
[county], that the several persons whose names are mentioned and set
out in the schedule hereunder written, being persons duly rated and
assessed to [the relief of the poor, or the maintenance of the highways]
of the said parish, in and by the rates in the said schedule mentioned,
in certain sums set down opposite to their respective names in the said
schedule, have not respectively paid the said sums or any part thereof,

but have respectively refused so to do: Wherefore the said [churchwardens and overseers, *or* surveyors], by *C.D.* aforesaid, pray that said several persons may respectively be summoned to appear before two of her Majesty's justices of the peace, to show cause respectively why they have not paid and refuse to pay the said sums respectively.

SCHEDULE.

Names of the rate-payers.	Residence.	Under rate dated the , 1849.	Arrears due under rate dated the , 1848.	Total sum due.
A.B.	(here state it)	£ s. d. 1 7 0	£ s. d. 1 7 0	£ s. d. 2 14 0
I.K.		0 13 0		0 13 0
L.M.			0 18 6	0 18 6
N.P.		0 14 3	0 14 3	1 8 6

C.D.

Made and exhibited before me,
at , in the county of ,
on this day of , 1849.
E.F.

(B.) Sect. 5.

Summons upon the Complaint.

To *A.B.*, of

WHEREAS complaint hath this day been made before the undersigned, [*one*] of her Majesty's justices of the peace in and for the [*county*] of , by the [churchwardens and overseers of the poor, *or* surveyors of the highways] of the parish of , in the said [*county*], that you, being a person duly rated and assessed to [the relief of the poor, *or* the maintenance of the highways] of the said parish, in and by a rate made on the day of , 1849, in the sum of , hath not paid the same or any part thereof, but hath refused so to do: These are therefore to command you, in her Majesty's name, to be and appear on , at o'clock in the forenoon, at , before such two or more justices of the peace for the said [*county*] as may then be there, to show cause why you have not paid and refuse to pay the same, otherwise you shall be proceeded against by default as if you had appeared, and be dealt with according to law.

Given under my hand and seal, this day of , in the year of our Lord , at , in the [*county*] aforesaid.

E.F.

Take notice, that you have already incurred the under-mentioned costs; viz.

	s.	d.
Clerk to the justices		
Overseer [<i>or</i> surveyor], for obtaining the summons		
Constable, for serving do.	1	0
Ditto, travelling expenses at three-pence per mile		
Total		

If the amount of these charges, together with the rate claimed, be paid to the overseer [*or* surveyor] before the day on which the summons is returnable, all further proceedings will be stopped.

(C. I.)

Warrant of Distress against One Rate-payer.

To the overseers of the poor [*or* to the surveyors of the highways] of the parish of _____, in the [county] _____, and to the constable of _____, and to all other peace officers in the said [county].

WHEREAS on _____ last past a complaint was made before *E.F.*, one of her Majesty's justices of the peace in and for the [county] of _____, by the [churchwardens and overseers of the poor, *or* surveyors of the highways] of the parish of _____, in the said [county], that *A.B.*, being a person duly rated and assessed to the relief of the poor [*or* to the maintenance of highways] of the said parish, in and by a rate made on _____, in the sum of _____, had not paid the same or any part thereof, but had refused so to do; and now at this day, to wit, on _____, at _____, the parties aforesaid appear before us, the undersigned, two of her Majesty's justices of the peace in and for the said county [*or* the said churchwardens and overseers, *or* surveyors, by *C.D.*, one of the said overseers, *or* surveyors, appear before us, the undersigned, two of her Majesty's justices of the peace in and for the said county, but the said *A.B.*, although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to us on oath that the said *A.B.* has been duly served with a summons in this behalf, which required him to be and appear here at this day, before such two or more justices of the peace as should now be here, to answer the said complaint, and to be further dealt with according to law]; and now having heard the matter of the said complaint, and it being now duly proved to us upon oath [in the presence and hearing of the said *A.B.*] that an assessment for the [relief of the poor, *or* the maintenance of the highways] of the said parish of _____, and for other purposes chargeable thereon according to law, dated the _____, was duly made, allowed, and published, and that the said *A.B.* is therein and thereby assessed at the sum of _____ aforesaid,* and that the said sum hath been duly demanded of the said *A.B.*, but that he hath not paid, and hath refused

* "And that a certain other assessment for the relief," &c. to the asterisk, if there be arrears.

and still refuses to pay the same; and the said *A.B.* now not showing to us any sufficient cause for not paying the same: These are therefore to command you, in her Majesty's name, forthwith to make distress of the goods and chattels of the said *A.B.*; and if within the space of [*five*] days after the making of such distress the said sum, and the sum of

for the costs incurred by the said [churchwardens and overseers, or surveyors] in obtaining this warrant, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale you retain the said sums of and ~~the said~~, rendering the overplus, on demand, to the said *A.B.*, the reasonable charges of taking, keeping, and selling the said distress being first deducted; and if no such distress can be found, that then you certify the same unto us, to the end that such further proceedings may be had herein as to the law doth appertain.

Given under our hands and seals, this _____ day of _____, in the year of our Lord _____, at _____, in the [county] aforesaid.

E.F.
G.H.

(C. 2.)

Sect. 3.

Warrant of Distress against several Ratepayers.

To the overseers of the poor [or the surveyors of the highways] of the parish of _____, in the [county] of _____, and to the constables of _____, and to all other peace officers in the said [county].

WHEREAS on _____ last past a complaint was made before *E.F.*, one of her Majesty's justices of the peace in and for the [county] of _____, by the [churchwardens and overseers of the poor, or the surveyors of the highways] of the parish of _____, in the said [county], that the several persons whose names are mentioned and set forth in the schedule hereunder written, being persons duly rated and assessed to [the relief of the poor, or maintenance of the highways] of the said parish, in and by the rates in the schedule in that complaint and in this warrant underwritten, in certain sums set down opposite to their respective names in the said schedule, had not respectively paid the said sums or any part thereof, but had respectively refused so to do; and now at this day, to wit, on _____, at _____, the said [churchwardens and overseers, or surveyors] by *C.D.*, one of the said overseers, or surveyors, and *A.B.*, *I.K.*, and *L.M.*, some of the said parties in the said schedule mentioned, appear before us, the undersigned, two of her Majesty's justices of the peace in and for the said [county], but the said *N.P.*, although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to us on oath that the said *N.P.* has been duly served with the summons in this behalf, which required him to be and appear here at this day, before such two or more justices of the peace as should now be here, to answer the said complaint, and to be further dealt with according to law; and now having heard the matter of the said complaint against the said several parties, and it being now duly proved to us upon oath, in the

presence of the parties so appearing as aforesaid, that an assessment for [the relief of the poor] of the said parish of _____, and for other purposes chargeable therein according to law, dated the _____, was duly made, allowed, and published, and that the said several persons whose names are mentioned and set out in the schedule hereunder written are therein and thereby assessed at the sums set down opposite to their respective names in the said schedule, and that the said several sums have been duly demanded of them respectively, but they have not, nor hath any of them, paid the said sums or any of them, or any part thereof respectively, but they have refused and still do refuse to pay the same respectively, and have not, nor hath any of them, showed to us sufficient cause for not paying the same; These are therefore to command you, in her Majesty's name, forthwith to make distress of the goods and chattels of the several persons whose names are mentioned and set out in the schedule hereunder written; and if within the space of *five* days after the making of such distresses respectively the said several sums set opposite to their respective names at which they were so rated and assessed as aforesaid, and the said several sums for costs incurred by the said [churchwardens and overseers, or surveyors] also set opposite to their respective names, together with the reasonable charges of taking and keeping the said distress in each case, shall not be paid, that then you do sell the goods and chattels of the party so making default so by you distrained, and out of the money arising by such sales respectively you retain the sums so set opposite to the name of each party whose goods you shall have so sold, rendering to him the overplus, the reasonable charges of taking, keeping, and selling the said distress being first deducted; and if in any of the cases mentioned in the schedule hereunder written no such distress can be found, that then you certify the same unto us, to the end that such further proceedings may be had herein as to the law doth appertain.

SCHEDULE.

Names of rate-payers.	Residence.	Under rate dated _____, 1849.	Arrears due under rate dated _____, 1848.	Costs.	Total.
A.B.	(here state it)	£ s. d. 1 7 0	£ s. d. 1 7 0	£ s. d. 0 6 0	£ s. d. 3 0 0
I.K.	- - - - -	0 13 0	- - -	0 2 0	0 15 0
L.M.	- - - - -	- - -	0 18 6	0 3 0	1 6
N.P.	- - - - -	0 14 3	0 14 3	0 5 0	1 13 6

Given under our hands and seals, this _____ day of _____, in the year of our Lord _____, at _____, in the [county] aforesaid.

E.F.
G.H.

Warrant of Commitment in default of Distress.

To the overseers of the poor [or the surveyors of the highways] of the parish of _____, in the [county] of _____, and to the constable of _____, and to all other peace officers in the said [county], and to the keeper of the [house of correction] at _____, in the said [county].

WHEREAS ON _____ last past a complaint was made before *E.F.*, esquire, one of her Majesty's justices of the peace in and for the said [county] of _____, by the [churchwardens and overseers of the poor, or surveyors of the highways] of the parish of _____, in the said [county], that *A.B.*, being a person duly rated to the [relief of the poor, or maintenance of the highways] of the said parish, in and by a rate made on _____, in the sum of _____, had not paid the same or any part thereof, but had refused so to do; and afterwards on _____, at _____, the parties aforesaid appeared before *E.F.* and *G.H.*, esquires, two of her Majesty's justices of the peace in and for the said county [or the said churchwardens and overseers, or surveyors, by *C.D.*, one of the said overseers, or surveyors, appeared before *E.F.* and *G.H.*, esquires, two of her Majesty's justices of the peace in and for the said county, but the said *A.B.*, although duly called, did not appear by himself, his counsel or attorney, and it was then satisfactorily proved to the said justices that the said *A.B.* had been duly served with the summons in that behalf, which required him to be and appear there at that day, before such two or more justices of the peace as should then be there, to answer the said complaint, and to be further dealt with according to law; and then having heard the matter of the said complaint, and it being then duly proved to the said justices upon oath [in the presence and hearing of the said *A.B.*] that an assessment for the [relief of the poor, or the maintenance of the highways] of the said parish of _____, dated the _____, was duly made, allowed, and published, and that the said *A.B.* was therein and thereby assessed at the sum of _____ aforesaid, and that the said sum had been duly demanded of the said *A.B.*, but that he had not paid, and had refused and still refused to pay the same, and the said *A.B.* then not showing to the said *E.F.* and *G.H.* any sufficient cause for not paying the same, the said justices thereupon then issued a warrant to _____, commanding them to levy the said sum of _____, and the sum of _____ for the costs incurred in obtaining that warrant, by distress and sale of the goods and chattels of the said *A.B.*: And whereas it now appears to me, the undersigned, one of her Majesty's justices of the peace in and for the said [county], as well by the return of the said _____ to the said warrant of distress as otherwise, that the said _____ hath made diligent search for the goods and chattels of the said *A.B.*, but that no sufficient distress whereon to levy the said sums above mentioned could be found: These are therefore to command you, the said [churchwardens and overseers, or surveyors] and constable and peace officers, or some or one of you, to take the said *A.B.*, and him safely to convey to the [house of correction] at _____ aforesaid, and there deliver him to the said keeper, together with this precept: and I do hereby command you, the said keeper of the said [house of correction], to receive the said *A.B.* into your custody in the said [house of correction], there to

imprison him for the space of ~~seven days~~ ^{seven days}, unless the said sums of
 and ~~the costs and charges of this commitment~~, together with the sum of
 for the cost attending the said distress, and the further sum of
 , being the costs and charges of this commitment, and of taking
 and conveying the said *A.B.* to prison, making in the whole the sum of
 , shall be sooner paid unto you, the said keeper; and for
 your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of ,
 in the year of our Lord , at , in the
 [county] aforesaid.

J.S. (L.S.)

CHAPTER XVI.

AN ACT to protect Justices of the Peace in Ireland from vexatious Actions for Acts done by them in the Execution of their Office.^[1] [11th May 1849.]

[Preamble.]

[1.] Every action hereafter to be brought against any justice of the peace in Ireland in any of her Majesty's superior courts of law at Dublin for any act done by him in the execution of his duty as such justice, with respect to any matter within his jurisdiction as such justice, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause; and if at the trial of any such action, the plaintiff shall fail to prove such allegation, he shall be nonsuit, or a verdict shall be given for the defendant.

Actions against justices for acts done in execution of duty.

2. For any act done by a justice of the peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by such justice in any such matter, may maintain an action against such justice in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration that the act complained of was done maliciously, and without reasonable and probable cause: Provided nevertheless, that (in any case where a conviction may be quashed either upon appeal or upon application to her Majesty's Court of Queen's Bench) no such action shall be brought for anything done under such conviction or order until after such conviction or order shall have been quashed, either upon appeal or upon application to her Majesty's Court of Queen's Bench; nor shall any such action be brought for anything done under any such warrant which shall have been issued by such justice to procure the appearance of such party, and

Actions for acts done in excess of jurisdiction.

^[1] Short title, "The Justices Protection (Ireland) Act, 1849." See 55 & 56 Vict. c. 10.]

which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last-mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence, nevertheless if a summons were issued previously to such warrant, and such summons were served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such summons, in such case no such action shall be maintained against such justice for anything done under such warrant.

Provision where one justice makes a conviction, and another grants a warrant.

3. Where a conviction or order shall be made by one or more justice or justices of the peace, and a warrant of distress or of commitment shall be granted thereon by some other justice of the peace, *bonâ fide* and without collusion, no action shall be brought against the justice who so granted such warrant by reason of any defect in such conviction or order, or for any want of jurisdiction in the justice or justices who made the same, but the action (if any) shall be brought against the justice or justices who made such conviction or order.

Provision where a distress warrant issued for poor rate in exercise of discretionary power.

4. Where any poor rate shall be made, allowed, and published, and a warrant of distress shall issue against any person named and rated therein, no action shall be brought against the justice or justices who shall have granted such warrant by reason of any irregularity or defect in the said rate, or by reason of such person not being liable to be rated therein; and in all cases where a discretionary power shall be given to a justice of the peace by any Act or Acts of Parliament, no action shall be brought against such justice for or by reason of the manner in which he shall have exercised his discretion in the execution of any such power.

Where justice acts under order of Queen's Bench.

5. [*Recital.*] In all cases where a justice or justices of the peace shall refuse to do any act relating to the duties of his or their office as such justice or justices, it shall be lawful for the party requiring such act to be done to apply to her Majesty's Court of Queen's Bench in Ireland, upon an affidavit of the facts for a rule, calling upon such justice or justices, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule good cause shall not be shown against it, the said court may make the same absolute, with or without or upon payment of costs, as to them shall seem meet; and the said justice or justices upon being served with such rule absolute shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against such justice or justices for having obeyed such rule, and done such act so thereby required as aforesaid.

Acts done under warrant

6. In all cases where a warrant of distress or warrant of commitment shall be granted by a justice of the peace upon any

conviction or order which, either before or after the granting of such warrant, shall have been or shall be confirmed upon appeal, no action shall be brought against such justice who so granted such warrant, for anything which may have been done under the same, by reason of any defect in such conviction or order.

where conviction confirmed on appeal.

7. In all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action shall be brought it shall be lawful for a judge of the court in which the same shall be brought, upon application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him shall seem meet.

Where action prohibited, proceedings may be set aside.

[*Ss. 8, 9, 12 rep. 56 & 57 Vict. c. 61. s. 2. S. 10 rep. 16 & 17 Vict. c. 113. s. 3. S. 11 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

13. In all cases where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two-pence as damages for such imprisonment, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for nonpayment of the sum he was so ordered to pay.

Limitation of damages if plaintiff proved guilty of offence, &c.

[*S. 14 rep. 56 & 57 Vict. c. 61. s. 2.*]

15. This Act shall extend only to Ireland.

Extent of Act.

[*S. 16 and s. 17 (repealing so much of 10 Ch. 1. sess. 2. (I.) c. 16, 43 Geo. 3. c. 143, as relates to actions against justices of the peace, and 43 Geo. 3. c. 141, and all other Acts or parts of Acts inconsistent with this Act) rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

18. This Act shall apply for the protection of all persons for anything done in the execution of their office, in all cases in which, by the provisions of any Act or Acts of Parliament, the several statutes or parts of statutes herein-before mentioned and by this Act repealed would have been applicable if this Act had not passed.

Application to cases of protection under repealed Acts.

[*S. 19 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XVIII.

AN ACT for the holding of Petty Sessions of the Peace in Boroughs, and for providing Places for the holding of such Petty Sessions in Counties and Boroughs.^[1]

[11th May 1849.]

WHEREAS certain meetings of justices of the peace, called petty sessions of the peace, are holden in and for certain divisions of the several counties of England and Wales, called petty sessional divisions, and important duties have lately been assigned to the justices attending at such petty sessions, and to their clerks, by certain Acts of Parliament, and it is desirable to declare and enact that the sittings of justices of the peace, or of a stipendiary magistrate, in and for every city, borough, or town corporate having a separate commission of the peace, or for any part thereof, shall be deemed a petty sessions of the peace within the meaning of such Acts, and that buildings or places at which petty sessions may be holden shall, where necessary, be provided:

Definition of petty sessions and petty sessional division in boroughs, &c. having separate commissions of the peace.

[1.] Every sitting and acting of justices of the peace, or of a stipendiary magistrate, in and for any city, borough, or town corporate having a separate commission of the peace, or any part thereof, within England and Wales, at any police court or other place appointed in that behalf, shall be deemed a petty sessions of the peace, and the district for which the same shall be holden shall be deemed a petty sessional division, within the meaning of any Acts of Parliament, already made or hereafter to be made, having relation to such petty sessions, or to any business to be transacted thereat.

Provision of places for holding petty sessions.

2. In all cases where hereafter there shall not be any fit or proper place for the holding of such petty sessions within any such petty sessional division as aforesaid, in any county, riding, liberty, or division within England and Wales, or within any city, borough, or town corporate within the same, it shall be lawful for the justices of the peace for any such county, riding, liberty, or division, in general or quarter sessions assembled, and for the council or other governing body in any such city, borough, or town corporate having a separate commission of the peace, respectively, if they shall respectively think fit, from time to time to direct that fit and proper places be hired or otherwise provided for the holding of such petty sessions of the peace within any such petty sessional division as aforesaid, and that the expences thereof and attendant thereon, be paid out of the county rate or borough fund respectively, as the case may be: Provided always, that no such direction for hiring or otherwise providing any place for the holding of such petty sessions shall

[¹ Short title, "The Petty Sessions Act, 1849." See 55 & 56 Vict. c. 10.]

be given by the justices for any such county, riding, liberty, or division, so assembled as aforesaid, unless an application in writing for that purpose, signed by the justices of the peace acting in such petty sessional division, or the major part of such justices, shall have been transmitted to the clerk of the peace six weeks at the least before the holding of the general or quarter sessions at which such direction shall be given; and the clerk of the peace shall cause notice of such application to be published in some newspaper circulating in the same county, riding, liberty, or division, and in which the advertisements of county business are usually inserted, fourteen days at the least before the holding of such general or quarter sessions: Provided always, that in every such case when it may be so required to provide a fit and proper place for the holding of such petty sessions as aforesaid, if it shall appear to the justices so assembled as aforesaid, or to the council of such city, borough, or town corporate respectively, that the county court for the district is holden in any building or place which would be appropriate for the holding of such petty sessions, it shall be lawful for such justices or council respectively to contract with the treasurer of such county court for the use and occupation thereof, or of so much thereof as may be needed for the purposes of such petty sessions, for such time or times, weekly or otherwise, and at such annual rent, and subject to such conditions as to repairs, alterations, or improvements of such building or place, as may be agreed upon.

3. Provided always, that where justices of the peace, acting as such for two or more adjoining counties, ridings, liberties, or divisions, hold petty sessions on or near the common boundaries of such counties, ridings, liberties, or divisions, it shall be lawful for the justices of the peace of each of such counties, ridings, liberties, or divisions, upon such application as herein-before provided, to agree with the justices of the peace of the other or others of such counties, ridings, liberties, or divisions, that a place for the holding of such petty sessions be hired or otherwise provided within either of such counties, ridings, liberties, or divisions, and that the same be so hired or otherwise provided at the joint expence of such counties, ridings, liberties, or divisions, in such manner and proportions as in the said agreement shall be specified; and all the provisions of an Act of the last session, intituled "An Act to provide for the expences of erecting and maintaining lock-up houses on the borders of counties," concerning the appointment and re-assembling of committees, filling up vacancies in committees, the proceedings of committees, the agreement to be drawn by them (except so far as respects the appointment and salary of a superintendent constable), and the powers of the court of general or quarter sessions and of committees in relation to such agreement, and the executing the same, and doing all necessary acts consequential upon such agreement,

Provision of places for holding petty sessions for adjoining counties.

11 & 12 Vict.
c. 101.

shall extend and be applicable to every agreement to be made under this Act by and between the justices of two or more such counties, ridings, liberties, or divisions as aforesaid, as if such provisions had been here repeated, and the agreement to be made as aforesaid under this Act, and the place to be provided for the holding of such petty sessions as aforesaid, had been substituted in such provisions for such agreement and lock-up house as in the said Act mentioned.

CHAPTER XXV.

AN ACT for giving effect to the Stipulations of a Treaty between Her Majesty and the Queen of Portugal for the Apprehension of certain Deserters. [26th June 1849.]

[*Preamble recites Treaty of Commerce and Navigation with Portugal* [¹] *dated 3 July 1842, Articles 16 & 19.*]

Apprehension and rendition of deserters from Portuguese vessels in ports in British dominions.

[1.] In case any apprentice or sailor shall desert from any vessel belonging to any Portuguese subject or subjects, while such vessel shall be within any port in any of her Majesty's dominions, or the territories under the government of the East India Company, all justices of the peace and other magistrates and officers of justice within their several jurisdictions shall, on application being made by a Portuguese consul, or his deputy or representative, according to the provisions of the said treaty, aid in apprehending such apprentice or sailor; and upon any such application it shall be lawful for any justice of the peace, or other magistrate or person having power to commit for trial persons accused of crimes against the laws of that part of her Majesty's dominions or territories in which such apprentice or sailor shall be found, to issue his warrant for the apprehension of such apprentice or sailor, and, upon due proof of such desertion as aforesaid, to order such apprentice or sailor to be conveyed on board the said vessel, or to be delivered to the master, mate, or owner of such vessel, or his agent, for the purpose of being so conveyed; and it shall be lawful for such master, mate, owner, or agent, or any other person, in pursuance of the order in that behalf, to convey such apprentice or sailor accordingly.

Penalty for protecting deserters.

2. No person shall protect or harbour any apprentice or sailor who shall have deserted as aforesaid, knowing or having reason to believe such apprentice or sailor to have so deserted; and every person so offending shall for every such apprentice or seamen so protected or harboured forfeit and pay the sum of ten pounds; [*Rest of section rep. 39 & 40 Vict. c. 20. s. 2, which substitutes other provisions.*]

The operation of this Act in any colony may be

3. If by any law or ordinance to be hereafter made by the local legislature of any British colony or possession abroad provision shall be made for carrying into complete effect within

[¹ Hertslet's Treaties, vol. 6, p. 598.]

such colony or possession the objects of this present Act, by the substitution of some other enactment in lieu thereof, then it shall be competent to her Majesty, with the advice of her Privy Council, (if to her Majesty in council it shall seem meet, but not otherwise), to suspend the operation within any such colony or possession of this present Act, so long as such substituted enactment shall continue in force there, and no longer.

suspended while any enactment of the colonial legislature carrying out the objects of this Act remains in force there.

4. This Act shall continue in force during the continuance of the said treaty.

Continuance of this Act.

CHAPTER XXVI.

AN ACT for granting Relief against Defects in Leases made under Powers of Leasing, in certain Cases.^[1]

[26th June 1849.]

[Preamble.]

[1.] In construing this Act words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing males shall extend to females, and the word "person" shall include corporations aggregate or sole, unless in any of the cases aforesaid there be something in the context repugnant to such construction.

Interpretation of terms.

2. Where in the intended exercise of any power of leasing, whether derived under an Act of Parliament or under any instrument lawfully creating such power, a lease has been or shall hereafter be granted, which is, by reason of the non-observance or omission of some condition or restriction, or by reason of any other deviation from the terms of such power, invalid as against the person entitled after the determination of the interest of the person granting such lease to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled to the hereditaments comprised in such lease, such lease, in case the same have been made bonâ fide, and the lessee named therein, his heirs, executors, administrators, or assigns, (as the case may require,) have entered thereunder, shall be considered in equity as a contract for a grant, at the request of the lessee, his heirs, executors, administrators, or assigns, (as the case may require,) of a valid lease under such power, to the like purport and effect as such invalid lease as aforesaid, save so far as any variation may be necessary in order to comply with the terms of such power; and all persons who would have been bound by a lease lawfully granted under such power shall be bound in equity by such contract: Provided always, that no lessee under any such invalid lease as aforesaid, his heirs, executors, administrators,

Leases granted under intended exercise of powers, but invalid owing to deviation from the terms of the powers, to be in certain cases valid as contracts.

^[1] The operation of this Act was suspended until the 1st June 1850, by 12 & 13 Vict. c. 110.]

or assigns, shall be entitled by virtue of any such equitable contract as aforesaid to obtain any variation of such lease, where the persons who would have been bound by such contract are willing to confirm such lease without variation.

[*S. 3 rep. 13 & 14 Vict. c. 17. s. 1.*]

Leases invalid by reason that the grantor could not lawfully grant them, in certain cases to become valid.

4. Where a lease granted in the intended exercise of any such power of leasing as aforesaid is invalid by reason that at the time of the granting thereof the person granting the same could not lawfully grant such lease, but the estate of such person in the hereditaments comprised in such lease shall have continued after the time when such or the like lease might have been granted by him in the lawful exercise of such power, then and in every such case such lease shall take effect, and be as valid as if the same had been granted at such last-mentioned time, and all the provisions herein contained shall apply to every such lease.

Where grantor of lease has a valid power of leasing it shall be deemed to be granted in exercise of power.

5. When a valid power of leasing is vested in or may be exercised by a person granting a lease, and such lease (by reason of the determination of the estate or interest of such person or otherwise) cannot have effect and continuance according to the terms thereof, independently of such power, such lease shall, for the purposes of this Act, be deemed to be granted in the intended exercise of such power, although such power be not referred to in such lease.

Saving of rights of lessees under covenants, and lessors' rights of re-entry.

6. Provided always, that nothing in this Act contained shall extend or be construed to prejudice or take away any right of action or other right or remedy to which, but for the passing of this Act, the lessee named in any such lease as aforesaid, his heirs, executors, administrators, or assigns, would or might have been entitled, under or by virtue of any covenant for title or quiet enjoyment contained in such lease on the part of the person granting the same, or to prejudice or take away any right of re-entry or other right or remedy to which, but for the passing of this Act, the person granting such lease, his heirs, executors, administrators, or assigns, or other the person for the time being entitled to the reversion expectant on the determination of such lease, would or might have been entitled, for or by reason of any breach of the covenants, conditions, or provisos contained in such lease, and on the part of the lessee, his heirs, executors, administrators, or assigns, to be observed and performed.

This Act not to extend to certain leases.

7. This Act shall not extend to any lease by an ecclesiastical corporation or spiritual person, or to any lease of the possessions of any college, hospital, or charitable foundation, or to any lease where, before the passing of this Act, the hereditaments comprised in such lease have been surrendered or relinquished, or recovered adversely by reason of the invalidity thereof, or there

has been any judgment or decree in any action or suit concerning the validity of such lease, . . .

8. This Act shall not extend to Scotland.

Extent of Act.

[*S. 9 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XXVII.

AN ACT to remove Doubts concerning the Transportation of Offenders under Judgment of Death to whom Mercy may be extended in Ireland. [26th June 1849.]

[*Preamble.*]

[1.] Whenever her Majesty, or the Lord Lieutenant, shall be pleased to extend mercy to any offender under judgment of death in Ireland for any offence whatsoever by law punishable with death, it shall be lawful for her Majesty, by warrant under her royal sign manual, or for the Lord Lieutenant by warrant signed by such Lord Lieutenant, to order the transportation of such offender for the term of the natural life of such offender, or for any term of years (as in such warrant shall be expressed); and such warrant shall be as effectual in the law, and shall be carried into execution by the transportation of such offender to any place beyond the seas to which offenders may be transported, in the same manner as if such warrant had been a sentence and order for the transportation for the like term of such offender, pronounced, made, and recorded, in respect of an offence in respect of which such sentence and order might have been pronounced and made, by a court of competent jurisdiction.

Exercise of prerogative of mercy.

2. Every such warrant shall be lodged with the clerk of the crown or clerk of the peace acting for the court where the judgment of death hath been or shall be pronounced or recorded, to be kept among the records of such court.

Warrants to be recorded in the court where judgment of death was pronounced.

CHAPTER XXXIV.

AN ACT to amend an Act regulating the Justice of the Peace Small Debt Courts in Scotland.[¹] [13th July 1849.]

[*Preamble recites 6 Geo. 4. c. 48.*]

[1.] All causes which her Majesty's justices of the peace in Scotland may competently hear, try, and determine under the authority of the said recited Act and this Act shall proceed upon complaint, to be signed by the clerk or depute clerk of the peace agreeably to the form in schedule (A.) hereunto annexed; and a

Procedure in causes to be tried by justices in Scotland.

[¹ Short title, "The Justices of the Peace Small Debt (Scotland) Act, 1849." See 55 & 56 Vict. c. 10.]

copy of the complaint with citation thereon, and also a copy of the account, document of debt, or state of the demand, being delivered by a constable to the defender personally, or left at the dwelling place of the defender, or, in the case of a company, at the ordinary place of business of the company, six days at least before the diet of court mentioned in such complaint, shall be good and effectual to all intents and purposes, anything in the said recited Act requiring a second citation, where the first citation had not been delivered personally, to the contrary notwithstanding.

Warrant for rehearing after decrees pronounced in absence.

2. Where a decree has been pronounced in absence of the defender, or where absolvitor has passed in absence of the pursuer, a copy of the warrant for rehearing, being served upon the other party personally, or left at the dwelling place of such party, in the manner and upon the induciæ herein-before prescribed regarding the service of a complaint, shall be an authority for rehearing the cause.

Warrant or decree issued in one county may be enforced in another.

3. Any warrant or decree to be obtained in any such cause as aforesaid may be enforced by a constable either in the county in which the same has been issued, or in any other county or counties; provided that, when enforced in any other county, the warrant or decree or extract thereof shall first be endorsed by the clerk or depute clerk of the peace of such other county, who is hereby required to make such endorsement, on payment of a fee not exceeding one shilling.

Construction of recited A. t.

4. The said recited Act shall continue in full force and effect, excepting in so far as the same is hereby altered and amended.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Sect. 1.

SCHEDULE (A.)

No.

The honourable her Majesty's justices of the peace for the shire
[or stewartry] of

To , officers of court, jointly and severally.

WHEREAS it is humbly complained to us by C.D., [designation,] that E.F., [designation,] defender, is owing to the complainer the sum of , which the said defender refuses or delays to pay; and therefore the said defender ought to be decerned and ordained to make payment to the complainer with expences: Therefore it is our will, that on sight hereof ye lawfully summon the said defender to compare before us, or any two or more of us, in the , at , upon the day of , at , of the clock noon, to answer at the complainer's instance in the said matter, with certification, in case of failure, of being held as confessed; requiring you also to deliver to the defender a copy of any account, document of debt, or state of the demand pursued for; and that ye cite

witnesses and havers for both parties to compear at the said place and date, to give evidence in the said matter as accords of law.

Given under the hand of the clerk of court, at
the day of , eighteen hundred
and years.

J.P., clerk,
[or depute clerk.]

Citation for Defender.

E.F., defender above designed, you are hereby summoned to appear and answer before the justices in the matter, and at the time and place, and under the certification, set forth in the above copy of the complaint, against you.

This notice served upon the day of ,
by me.

J.T., constable.

CHAPTER XLV.

AN ACT to amend the Procedure in Courts of Quarter Sessions in England and Wales, and for the better Advancement of Justice in Cases within the Jurisdiction of those Courts.^[1] [28th July 1849.]

[Preamble.]

[1.²] In every case of appeal (except as herein-after mentioned) to any court of quarter sessions fourteen clear days notice of appeal at least shall be given, and such shall be sufficient notice, any Act or Acts, or any rule or practice of any court or courts, to the contrary notwithstanding; and such notice of appeal shall be in writing, signed by the person or persons giving the same, or by his, her, or their attorney on his, her, or their behalf, and the grounds of appeal shall be specified in every such notice: Provided always, that it shall not be lawful for the appellant or appellants, on the trial of any such appeal, to go into or give evidence of any other ground of appeal besides those set forth in such notice.

Notice of appeal to quarter sessions.

2. None of the provisions herein-before contained relating to notices of appeal shall be construed to affect or alter the law as to notice of appeal against a summary conviction, or against an order of removal, or against an order under any statute relating to pauper lunatics, or against an order in bastardy, or against any proceeding under or by virtue of any of the statutes relating to her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office, but the law with regard to notices of all such appeals shall be deemed and taken to be the

This Act not to affect appeals in certain matters.

[¹ Short title, "The Quarter Sessions Act, 1849." See 55 & 56 Vict. c. 10.]

[² S. 1 is rep. so far as relates to appeal against order of court of summary jurisdiction, 47 & 48 Vict. c. 43 s. 4.]

same as if the provisions herein-before contained had not been enacted.

Certain
objections not
to prevail.

3. [*Recital.*] Upon the hearing of any appeal to any court of quarter sessions no objection on account of any defect in the form of setting forth any ground of appeal shall be allowed, and no objection to the reception of legal evidence offered in support of any ground of appeal shall prevail, unless the court shall be of opinion that such ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial: Provided always, that in all cases where the court shall be of opinion that any objection to any ground of appeal, or to the reception of evidence in support thereof, ought to prevail, it shall be lawful for such court, if it shall so think fit, to cause any such ground of appeal to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to such court shall appear just and reasonable.

Amendment.

Costs in
frivolous or
vexatious
appeals.

4. If in any notice of appeal the appellant or appellants shall have included any ground or grounds of appeal which shall in the opinion of the court determining the appeal be frivolous or vexatious, such appellant or appellants shall be liable, if the court shall so think fit, to pay the whole or any part of the costs incurred by the respondent or respondents in disputing any such ground or grounds of appeal, such costs to be recoverable in the manner herein-after directed as to the other costs incurred by reason of such appeal.

General
powers as to
costs of
appeals.

5. Upon any appeal to any court of quarter sessions the court before whom the same shall be brought may, if it think fit, order and direct the party or parties against whom the same shall be decided to pay to the other party or parties such costs and charges as may to such court appear just and reasonable, such costs to be recoverable in the manner provided for the recovery of costs upon an appeal against an order or conviction by the Summary Jurisdiction Act, 1848.

11 & 12 Vict.
c. 43.

Costs where
appeal is not
prosecuted.

6. And for the more effectual prevention of frivolous appeals, any court of quarter sessions, upon proof of notice of any appeal to the same court having been given to the party or parties entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if it so think fit, at the same sessions for which such notice was given, order to the party or parties receiving the same such costs and charges as by the said court shall be thought reasonable and just, to be paid by the party or parties giving such notice, such costs to be recoverable in the manner last aforesaid.

7. [*Recital.*] If upon the trial of any appeal to any court of quarter sessions against any order or judgment made or given by any justice or justices of the peace or if upon the return to any writ of certiorari any objection shall be made on account of any omission or mistake in the drawing up of such order or judgment, and it shall be shown to the satisfaction of the court that sufficient grounds were in proof before the justice or justices making such order or giving such judgment to have authorized the drawing up thereof free from the said omission or mistake, it shall be lawful for the court, upon such terms as to payment of costs as it shall think fit, to amend such order or judgment, and to adjudicate thereupon as if no such omission or mistake had existed: Provided always, that no objection on account of any omission or mistake in any such order or judgment brought up upon a return to a writ of certiorari shall be allowed, unless such omission or mistake shall have been specified in the rule for issuing such certiorari.

Powers of amendment on appeal or certiorari.

8. [*Recital.*] Where any recognizance or recognizances which shall have been entered into within the time by law required before any justice or justices for the purpose of complying with any such condition of appeal shall appear to the court before which such appeal is brought to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such court, if it shall so think fit, to permit the substitution of a new and sufficient recognizance or new and sufficient recognizances to be entered into before such court in the place of such insufficient, defective, or invalid recognizance or recognizances, and for that purpose to allow such time, and make such examination, and impose such terms as to payment of costs to the respondent or respondents, as to such court shall appear just and reasonable; and such substituted recognizance or recognizances shall be as valid and effectual to all intents and purposes as if the same had been duly entered into at any earlier time or times, as required by any statute or statutes for that purpose.

Defective recognizances.

9. The decisions of the court of quarter sessions upon the hearing of any appeal, as to the sufficiency of the statement of any ground or grounds of appeal, and as to the amending or refusing to amend any order or judgment of a justice or justices appealed against, or the statement of any ground or grounds of appeal, and as to the substitution of any new recognizance or recognizances as aforesaid, shall be final, and shall not be liable to be reviewed in any court, by means of a writ of certiorari or mandamus, or otherwise.

Decisions of sessions, as to statement of grounds, amendment, or recognizances, to be final.

10. Every court of quarter sessions on the trial of any offence within its jurisdiction, whenever any variance or variances shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof in the indictment shall have the same power

Amendment of indictments by quarter sessions.

11 & 12 Vict.
c. 46.

in all respects to cause the indictment to be amended which is given to courts of oyer and terminer and general gaol delivery with regard to offences tried before such last-mentioned courts by virtue of an Act of the twelfth year of her Majesty's reign, intituled "An Act for the removal of defects in the administration of criminal justice"; and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance or variances had appeared.

Special case,
after notice
given of appeal
to quarter
sessions.

11. At any time after notice given of appeal to any court of quarter sessions against any judgment, order, rate, or other matter, (except an order in bastardy, or a proceeding under or by virtue of any of the statutes relating to her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) for which the remedy is by such appeal, it shall be lawful for the parties, by consent, and by order of any judge of one of the superior courts of common law at Westminster, to state the facts of the case in the form of a special case for the opinion of such superior court, and to agree that a judgment in conformity with the decision of such court, and for such costs as such court shall adjudge, may be entered on motion by either party at the sessions next or next but one after such decision shall have been given; and such judgment shall and may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the court of quarter sessions upon an appeal duly entered and continued.

Arbitration
after notice
given of ap-
peal to quarter
sessions.

12. [*Recital of 9 Will. 3. c. 15. as to arbitrations.*] At any time after notice given of appeal to any court of quarter sessions against any order, rate, or other matter, (except a summary conviction, or an order in bastardy, or any proceeding under or by virtue of any of the statutes relating to her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) for which the remedy is by such appeal, it shall be lawful for the parties, by themselves or their attornies, and by order of a judge of her Majesty's Court of Queen's Bench, to submit the matter or matters of such appeal to the award or umpirage of any person or persons . . . and every award or umpirage duly made under this Act shall be as binding and effectual to all intents as if the same had been a regular judgment of the said court of quarter sessions, and shall and may, on the application of either party, be enrolled among the records of the said court of sessions.

Arbitration
by order of
court of
quarter
sessions.

13. It shall be lawful for any court of quarter sessions before which any appeal (except against a summary conviction, or an order in bastardy, or any proceeding under or by virtue of any of the statutes relating to her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) shall be brought, to order, with consent of the parties or their

attornies, that the matter or matters of such appeal be referred to arbitration, to such person or persons and in such manner and on such terms as the said court shall think reasonable and proper; . . . and the award of the arbitrator or arbitrators, or umpirage of the umpire, may, on motion by either party at the sessions next or next but one after such award or umpirage shall have been finally made and published, or after the decision of the Court of Queen's Bench on any motion for setting aside the same, be entered as the judgment of the court of quarter sessions in the appeal, and shall be as binding and effectual to all intents as if given by the said court.

14. If upon any reference to arbitration under this Act it shall be made to appear to the Court of Queen's Bench that, either from the death of the arbitrator or arbitrators or umpire, or from any other cause, it has become impossible that an award or umpirage can be made, it shall be lawful for the said court to order the court of quarter sessions to enter continuances and hear the appeal.

Where reference becomes abortive, Court of Queen's Bench may order quarter sessions to hear the appeal.

[*S. 15 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

16. No recognizance entered into pursuant to any statute or statutes for the prosecution and trial of any appeal shall be deemed to be forfeited by such agreement as aforesaid for the statement of a special case without previously going to the court of quarter sessions, or by any submission to arbitration under the provisions of this Act.

Recognizances not to be forfeited by statement of special case or submission to arbitration.

17. And whereas by the Levy of Fines Act, 1822, provision is made for authorizing the levying and recovery of fines, issues, amerciaments, and forfeited recognizances, set, imposed, lost, or forfeited by or before any justice or justices of the peace in England: And whereas it is expedient that the subsequent proceedings in such cases should be uniform: Be it enacted, that the proceedings subsequent to such authority given for so levying and recovering as aforesaid shall and may be the same in all respects, in the case of such fines, issues, and amerciaments, as are by the said Act provided, permitted, and required in the case of such forfeited recognizances.

3 Geo. 4. c. 46.

Recovery of fines, &c. imposed by justices.

18. In all cases where any order shall be made by any court of quarter sessions, it shall be lawful for the Court of Queen's Bench, or for any judge of that court at chambers, upon the application of any person entitled to enforce such order, and upon the production of a copy of such order under the hand of the clerk of the peace or his deputy, and upon proof of refusal or neglect to obey such order, to order and direct such order of the court of quarter sessions to be removed into the said Court of Queen's Bench; and thereupon such order shall be of the same force and effect, and may be enforced in the same manner, as a rule made by the said Court of Queen's Bench; and all the reasonable

Enforcement of orders after removal by certiorari.

costs and charges attendant upon such application and removal shall be recoverable in like manner as if the same were part of such order.

Extent of Act. 19. Nothing in this Act contained shall extend to Scotland or Ireland.

[*Ss. 20, 21 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XLVIII.

AN ACT to provide for the Administration of Justice in Vancouver's Island. [28th July 1849.]

[*Preamble recites 43 Geo. 3. c. 138; 1 & 2 Geo. 4. c. 66. ss. 6, 10, 11, 12.*]

Constitution
of courts.

[1.] *Part of section repealing recited enactments as to Vancouver's Island rep. 54 & 55 Vict. c. 67. (S.L.R.)* It shall be lawful for her Majesty from time to time to make provision for the administration of justice in the said island, and for that purpose to constitute such court or courts of record and other courts, with such jurisdiction in matters civil and criminal, and such equitable and ecclesiastical jurisdiction, subject to such limitations and restrictions, and to appoint and remove or provide for the appointment and removal of such judges, justices, and such ministerial and other officers, for the administration and execution of justice in the said island, as her Majesty shall think fit and direct.

[*S. 2 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

Appeal to her
Majesty in
council in civil
cases.

3. Provided always, that all judgments given in any civil suit in the said island shall be subject to appeal to her Majesty in council, in the manner and subject to the regulations in and subject to which appeals are now brought from the civil courts of Canada, and to such further or other regulations as her Majesty, with the advice of her Privy Council, shall from time to time appoint.

Adjacent
islands
annexed to
Vancouver's
Island.

4. All such islands adjacent to Vancouver's Island or to the western coast of North America, and forming part of the dominions of her Majesty, as are to the southward of the fifty-second degree of north latitude, shall be deemed part of Vancouver's Island for the purposes of this Act.

[*S. 5 rep. 41 & 42 Vict. c. 79. (S.L.R.)*]

CHAPTER XLIX.

AN ACT to extend and explain the Provisions of the Acts for the granting of Sites for Schools.[¹]

[28th July 1849.]

[*Preamble recites 4 & 5 Vict. c. 38; 7 & 8 Vict. c. 37.*]

[1.] If part only of any lands comprised in a lease for a term of years unexpired shall be conveyed or agreed to be conveyed for the purposes of the School Sites Act, 1841, the rent payable in respect of the lands comprised in such lease, and any fine certain or fixed sum of money to be paid upon any renewals thereof, or either of such payments, may be apportioned between the part of the said lands so conveyed or agreed to be conveyed and the residue thereof; and such apportionment may be settled by agreement between the parties following, that is to say, the lessor or other the owner, subject to such lease, of the lands comprised therein, the lessee or other the party entitled thereto by virtue of such lease or any assignment thereof for the residue of the term thereby created, and the party to whom such conveyance as aforesaid for the purposes of the School Sites Act, 1841, is made or agreed to be made; and when such apportionment shall so be made it shall be binding on all under-lessees and other persons and corporations whatsoever, whether parties to the said agreement or not.

Apportionment of rents and fines where part only of lands under lease is conveyed. 4 & 5 Vict. c. 38.

2. In case of any such apportionment as aforesaid, and after the lands so conveyed or agreed to be conveyed as aforesaid shall have been conveyed, the lessee, and all parties entitled under him to the lands comprised in the lease not included in such conveyance, shall, as to all future accruing rent, and of all future fines certain or fixed sums of money to be paid upon renewals, be liable only to so much of the rent, and of such fines or sums of money, as shall be apportioned in respect of such last-mentioned lands; and the party entitled to the rent reserved by the lease shall have all the same rights and remedies for the recovery of such portion of the rent as last aforesaid as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, and of fines or sums of money to be paid upon renewals, in case of any apportionment of the same respectively, shall remain in force with regard to that part of the land comprised in the lease which shall not be so conveyed as aforesaid, in the same manner as they would have done in case such part only of the land had been included in the lease.

Liabilities of tenants, and remedies of landlords, as to the lands not conveyed.

3. [*Recital of 4 & 5 Vict. c. 38. s. 9.*] Nothing in the said Act contained shall prevent any person or corporation from

Limitation of land to be granted in same parish.

[¹ Short title, "The School Sites Act, 1849." See 55 & 56 Vict. c. 10.]

granting any number of sites for separate and distinct schools in the same parish, provided the aggregate quantity of land granted by such person in the same parish shall not exceed the extent of one acre.

Sites for schools for instruction of masters, &c. of elementary schools.

4. [*Recital.*] It shall be lawful for all persons, being absolute owners or tenants in tail in possession, to grant, convey, or enfranchise, by way of gift, sale, or exchange, any quantity of land, not exceeding in the whole five acres, to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held, applied, and used by such corporation or corporations or trustees in and for the erection of school buildings and premises thereon for the purpose of educating and instructing, and of boarding during the time of such education and instruction, persons intended to be masters or mistresses of elementary schools for poor persons, and for the residence of the principal or master or mistress and other officers of such institution; and such gift, sale, or exchange shall be and continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof: Provided always, that it shall be lawful for the trustees of such school buildings and premises to allow the same to be applied and used, concurrently with the education and instruction of such masters or mistresses, for the purpose of boarding other persons, and of educating and instructing the said persons in religious and useful knowledge.

5. And whereas the absolute owners of land may grant, subject to the regulations and provisions prescribed by the statutes in such behalf, any quantity of such land to trustees, to be held upon charitable purposes; and it would be beneficial that they should be authorized to exercise such power in respect of lands granted for the sites or for the endowment of the last-mentioned schools, or of schools for poor persons, by vesting the same so as to secure it permanently for the purpose of the trust, without the necessity of subsequent renewals of the deeds of trust: Be it therefore enacted, that where any such person shall be lawfully entitled to convey an estate in land to trustees, to hold the same upon any charitable use, and shall be desirous of conveying the same for the purposes of the Acts hereinbefore referred to, or this Act, or for the endowment of such schools, such person may grant and convey the same to any corporation or corporations as aforesaid, to be held in trust for such purposes, whatever may be the quantity of land or extent of the estate so to be granted and conveyed.

Power to convey to corporations as trustees.

Conveyances of copyholds.

6. Where land of copyhold or customary tenure shall have been or shall be granted for the purposes of the said Acts, the conveyance of the same by any deed wherein the copyholder shall grant and convey his interest, and the lord shall also grant his interest, shall be deemed to be valid and sufficient to vest

the freehold interest in the grantee or grantees thereof without any surrender or admittance or enrolment in the lord's court.

7. Except in cases where there shall be something in the subject or context repugnant to such construction, words occurring in this Act and the above-recited Acts importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender only shall include females; and the word "land" shall include messuages, houses, lands, tenements, hereditaments, and heritages, of every tenure; and the word "lease" shall include an under-lease, agreement for a lease, and missive of lease; and the word "owner" shall include any person or corporation enabled under the provisions of the School Sites Act, 1841, to convey lands for the purposes thereof.

Interpretation.

4 & 5 Vict.
c. 38.

[S. 8 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER L.

AN ACT for further amending the Laws relating to Sewers.^[1]
[28th July 1849.]

[*Preamble.*]

[1.] It shall be lawful for the commissioners acting in the execution of any commission of sewers in England, at a court specially to be holden for such purpose, and whereof notice shall be given in the manner prescribed by the ninth section of the Sewers Act, 1833, from time to time to partition the several districts within their respective commissions into such sub-districts as may appear to them most convenient for the purposes of this Act, and to fix and specify the boundaries of such sub-divisions respectively, and also to unite any separate districts or sub-districts within their respective commissions into one or more districts, and also from time to time, as to them shall seem expedient, to re-arrange, adjust, and partition such districts and sub-districts respectively.

Partition and
re-arrangement
of districts and
sub-districts.

3 & 4 Will. 4.
c. 22. s. 9.

2. It shall be lawful for the said commissioners, after every such partition, union, or re-arrangement of districts or sub-districts as aforesaid, from time to time, as to the said commissioners shall seem most expedient, to make a separate and distinct rate for each and every district or sub-district now existing, or which shall be hereafter constituted under the provisions of this present Act, such rate, when collected, to be applied within each such district or sub district to and for the several purposes to which the same may be lawfully applied under the authority of any of the Acts relating to sewers, or of this Act.

Power to
make a sepa-
rate rate for
each district or
sub-district.

[¹ Short title, "The Sewers Act, 1849." See 55 & 56 *Vict. c.* 10.]

Power to appoint dyke-reeves for sub-districts, and also for districts not partitioned.

3. It shall be lawful for the said commissioners from time to time to appoint one or more competent person or persons, being an occupier of sewable lands within their respective commissions, and qualified as herein-after mentioned, to act as dyke-reeve within each of such sub-districts as aforesaid, and also within each of such districts as are now existing or shall be hereafter constituted under the provisions of this present Act or the here-in-before mentioned Act, and which shall not be partitioned in manner aforesaid, and to assign and prescribe the duties and authorities of such dyke-reeve, and the time, not exceeding five years, during which he shall perform and exercise the same respectively.

Qualification of dyke-reeves.

4. Every occupier of not less than ten acres of sewable lands, and being of full age and sound mind, shall be qualified and liable to be appointed a dyke-reeve for the district or sub-district in which such lands shall be situate; and the said commissioners shall from time to time cause a full and true list to be prepared and kept of all the persons so qualified and liable to serve the office of dyke-reeve for the several districts and sub-districts within their respective commissions.

Persons appointed dyke-reeves compelled to serve, personally or by deputy.

5. It shall be compulsory upon every such person who shall be appointed by the commissioners to serve the office of dyke-reeve for any such district or sub-district as aforesaid, either personally or by a deputy (approved by the commissioners), to accept such office, and to perform and discharge the duties thereof, without fee or reward; and if any person who shall be appointed by the commissioners to serve the office of dyke-reeve shall, after due notice thereof in writing, refuse or neglect to take upon himself the office of dyke-reeve, or to provide a deputy to be approved as aforesaid, he shall on conviction before the said commissioners forfeit any sum not exceeding twenty pounds, unless he can show good and sufficient cause to the said commissioners why he should not be called upon to serve the said office: Provided always, that every deputy so approved of and appointed shall have the same powers and authorities, and be subject to the discharge of the same duty, as any dyke-reeve appointed under the authority of this Act.

Fines on presentment of dyke-reeves.

6. It shall be lawful for the said commissioners to impose any fine not exceeding forty shillings, upon the presentment on oath of any dyke-reeve acting within any such district or sub-district as aforesaid, for any breach of the law, acts, decrees, orders, constitutions, and ordinances of the commissioners within such district or sub-district, in the same manner as they have now the power to impose any such fine upon the presentment of any sewers jury, bailiff, surveyor, expeditor, or other person, which presentment shall be heard and determined by the said commissioners, and to proceed for the recovery of every such fine, either in the manner specified in the herein-before mentioned Act, or in the manner specified in the section next herein-after

contained, as to the said commissioners shall seem most expedient ; and no such fine shall be liable to be traversed, any law or custom to the contrary notwithstanding.

7. For the purpose of better collecting and recovering the fines, amerciaments, penalties, or forfeitures imposed by any commissioners of sewers, and also the sewers rates duly assessed on any sewable lands lying within the limits of any commission of sewers, it shall and may be lawful for any one commissioner acting within and for such limits, upon complaint of any expentitor, dyke-reeve, collector, or other officer of sewers, that any person liable to the payment of any such fine, amerciament, penalty, or forfeiture hath not paid the same, but hath refused so to do, or that any person duly rated and assessed in one or more such sewers rates hath not paid the sum or sums thereby charged on such person, but hath refused so to do, to issue his summons to such person to appear, at a time and place to be therein specified, before any two commissioners acting within and for such limits, to show cause why such person refuses to pay the said sum or sums ; and upon the appearance of such person at the time and place appointed as aforesaid, or otherwise upon proof on oath or affirmation to the said commissioners that such summons was served on the person to whom it was so directed, by delivery to the party personally, or by leaving the same with some person for him at his last place of abode, and also upon like proof of the imposition of such fine, amerciament, penalty, or forfeiture, or of the making of the said rate, and of the refusal of such person to pay the same respectively, it shall be lawful for the said two or other commissioners to issue their warrant to levy the said sum or sums, and also the costs and expenses incurred in obtaining such warrant (to be specified therein) and in executing the same, by distress and sale of the goods and chattels of such person ; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and costs, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained : Provided always, that if no such distress or distresses as aforesaid can be found, the same rates or fines, costs, charges, and expenses, together with the costs and charges of raising and levying the same, shall and may be raised and levied upon and out of the lands, tenements, and hereditaments, within the limits of the commission under and by virtue of which the distress warrant shall be issued, of or belonging to the person, body politic or corporate, upon or against whom the distress warrant shall be issued, in such and the same manner as the same would have been leviable if the same lands, tenements, or hereditaments had been lawfully assessed in the amount or respective amounts of the same rates or fines, costs, charges, and expenses, to or for a lawful scot, rate, or assessment for the purposes of the same commission ; and the same lands, tenements, and hereditaments shall be subject to all

Recovery of
sewers rates
and fines.

Summons.

Warrant of
distress.

Proceedings
in default of
distress.

such and the same orders and decrees as the same would have been subject to, and such orders and decrees shall be of the same force and authority, as if the same rates or fines, costs, charges, and expenses, were a lawful scot, rate, or assessment as aforesaid and unpaid.

Summons or warrant of distress may include several persons.

8. For the saving of expence in the levying of any sum or sums as aforesaid, it shall be lawful to make and issue one summons and one warrant of distress against any number of persons refusing to pay the same.

Warrants, to whom to be directed.

9. The warrant aforesaid may be directed to the bailiff expeditor, dyke-reeve, collector, or other sewers officer within such limits, and to any other person or persons, or to any one or more of them, as by the two commissioners of sewers granting the same shall be deemed fit.

Interpretation.

10. For the purposes of this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there shall be something in the subject matter or context repugnant to such construction; (that is to say,) words importing the singular number shall extend to the plural, and words importing the plural only shall include the singular; the word "person" shall extend to bodies politic, corporate, or collegiate; the word "lands" shall include lands and hereditaments of any tenure whatsoever; the word "oath" shall include affirmation in case of a Quaker, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath; the expression "district" shall extend to any level, valley, district, or limit within the commission of any court of commissioners, and the expression "sub-district" to any partition or sub-division of any such level, valley, district, or limit.

CHAPTER LI.

AN ACT for the better Protection of the Property of Pupils, absent Persons, and Persons under Mental Incapacity in Scotland.[¹]

[28th July 1849.]

[*Preamble recites Act of Sederunt of 13th February 1730.*]

Interpretation of terms in this Act.

[1.] The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) the expression "judicial factor" or "factor" shall mean factor loco tutoris, factor loco absentis, and curator bonis; the word "tutor" shall mean any person who after the passing of this Act shall be served tutor of law to any pupil, or be appointed tutor-dative to any pupil or insane person or idiot; the word "curator" shall mean any person who after

[¹ Short title, "The Judicial Factors Act, 1849." See 55 & 56 Vict. c. 10.]

the passing of this Act shall be served as curator to any insane person or idiot; the word "accountant" shall mean the accountant of the Court of Session, to be appointed under the authority of this Act; the expression "lord ordinary" shall mean the lord ordinary of the Court of Session discharging the duties of junior lord ordinary in time of session, and the lord ordinary on the bills in the time of vacation; the expression "Court of Session" or "court" shall, excepting as to the power of passing acts of sederunt, mean either division of the Court of Session; the word "estate" shall include all property and funds, and all rights heritable and moveable; the word "lands" shall include all heritable subjects; words used in the singular number shall be held to include several persons or things; and words importing the masculine gender shall extend and be applied to females as well as males.

2. Every judicial factor shall, within such time after his appointment as the court shall direct, find caution for his duly accounting for his intromissions and management, and observing and performing every duty incumbent upon him as factor, in terms of the rules prescribed or to be prescribed for the discharge of his office, and in case of his failure to do so his appointment shall fall; and no factor shall enter upon the duties of his office, nor shall an extract of his appointment be is-ued, until after such caution is found and received as sufficient; and the factor shall extract his appointment without delay.

Judicial factor
to find caution.

3. Every judicial factor shall, as soon as may be after extracting his appointment, and within six months at latest from the date on which his bond of caution shall have been received, lodge with the accountant a distinct rental of all lands committed to his management, specifying the rents, revenues, and profits of such lands, the existing leases and other rights affecting the lands, and the public burdens and other burdens thereon, and a list of all monies and funds belonging and debts due to the estate, specifying the particulars of each item, and the interest or revenue arising from the same, the document by which the same is vouchcd, and the nature and value of any security held for the same, and also an inventory of any household furniture, farm stocking, goods, or moveables, including rights moveable, forming part of the estate; and he shall, without delay, after extracting his appointment, recover all writs and documents of importance belonging to the estate, and collect all monies due to the same not securely invested, and use all reasonable diligence in ascertaining the exact nature and amount of the estate placed under his charge; and he shall produce all such writs and documents, and information so obtained by him, along with the said rental, list of funds, and inventory, to the accountant; which rental, list, and inventory, when adjusted and approved of by the accountant, shall be

Documents and
accounts to be
lodged by
judicial factor.

signed by him and the factor, and shall form a ground of charge against the factor; and if at any time thereafter any new claims or property belonging to the estate shall be discovered, the factor shall report the same in his next account of charge and discharge to the accountant, who shall make such alteration on the rental, list, and inventory as may be thereby rendered necessary.

Factor to close
his accounts
once a year.

4. The factor shall close his account of charge and discharge once in every year, on a day to be fixed by the accountant, and within one month thereafter shall lodge such account in the office of the accountant, with the vouchers numbered, and referred to in the account by number: Provided always, that it shall be competent for the accountant, on cause shown, to prorogate the time for lodging such accounts and vouchers, but in no case shall such prorogation extend beyond three months from the day fixed for the closing of the accounts.

Factor to lodge
monies in one
bank; and to
be charged
with interest
on monies kept
in his hands.

5. The factor shall lodge the money in his hands in some one of the banks in Scotland established by Act of Parliament or royal charter, in a separate account or on deposit, such account or deposit being in his own name as judicial factor on the estate; and if the factor shall keep in his hands more than fifty pounds of money belonging to the estate for more than ten days, he shall be charged with a sum to the estate at the rate of twenty pounds per centum per annum on the excess of the said sum of fifty pounds for such time as it shall be in his hands beyond the said ten days; and, unless the money has been so kept from innocent causes, the factor shall be dismissed from his office, and shall have no claim for commission.

Penalties on
factor for mis-
conduct.

6. If the factor shall misconduct himself, or fail in the discharge of his duty, he shall be liable to such fine, and to the forfeiture of the whole or any part of his commission, and to suspension or removal from his office as factor, and to payment of expences, or to any one or more of such penalties as the court in its discretion shall decide; and that over and above such further liability as he may be subject to as accords of law, in reparation of any loss or damage sustained by the estate in consequence of such misconduct or failure.

Special powers
for manage-
ment of estate.

7. If at any time it shall appear to the factor that there is a strong expediency for granting abatement of rent, either temporarily or permanently, or for renewing or granting a lease for a period of years, or for draining, or for erecting buildings or fences, or for otherwise improving the estate in a manner not coming within the ordinary course of factorial management, he shall report the same to the accountant, who may order any necessary inquiry, and shall state his opinion thereon in writing; and such report and opinion may be submitted by the factor to the lord ordinary, with a note praying for the sanction of the Court to the measure proposed; and the lord ordinary shall,

with or without further inquiry, report the matter to the court, who, if they consider it expedient and consistent with due regard to the amount of the estate at the time, may sanction the measure, and the decision of the court shall be final, and not subject to appeal; and if the estate be held under entail, it shall be lawful to the court to authorize the factor to take proceedings for constituting as a charge against the future heirs of entail, or otherwise recovering, the money expended in making any improvements upon the estate, under and in terms of the Entail Improvement Act, 1770, and under and in terms of the Entail Amendment Act, 1848; but nothing herein contained shall be held as conferring power on the court to authorize the factor to build or enlarge a mansion house upon the estate, or to charge the estate and future heirs of entail to a greater extent than one half the amount with which the heir in possession, if under no incapacity to act, could have charged the estate under the said Acts, or either of them; and if any factor having charge of the estate of any lunatic or other person incapable of managing his own affairs shall deem it proper for the comfort or welfare of such person that the whole or a part of such estate should be sunk on annuity, he shall report the matter to the accountant, who shall state his opinion thereon in writing, and such report and opinion shall be submitted by the factor, with a note as aforesaid, to the lord ordinary, who shall report the matter to the court, and it shall be in the power of the court to sanction the measure, and the decision of the court shall be final, and not subject to appeal; and in all other matters in which special powers are, according to the existing practice, in use to be granted by the court, the court shall have power to grant the same in like manner and form as is above provided.

10 Geo. 3.
c. 51.
11 & 12 Vict.
c. 36.

8. In all cases in which application shall be made to the lord ordinary or the court, by any factor or other person having right to make the same, for special powers, or for the extraordinary application of money or funds or property belonging to any estate, the lord ordinary or court shall order such intimation to be made as may be deemed proper.

Before special powers, &c. are granted, court to order intimation to be made.

[S 9 (as to appointment of officer to be called Accountant of the Court of Session) *rep.* 52 & 53 Vict. c. 39. s. 1.]

10. The accountant shall superintend generally the conduct of all judicial factors and tutors and curators coming under the provisions of this Act already appointed or to be hereafter appointed, and shall see that they duly observe all rules and regulations affecting them for the time.

Duties of accountant.

11. On the factor's bond of caution being received as sufficient, it shall be transmitted by the clerk to the process to the accountant, who shall forthwith give a written intimation, dated and signed, to the factor or his agent, stating that the bond has been received, and assigning the day on which the factor is to close his first account, being not less than six nor more than eighteen

First account of factor.

On death, &c.
of cautioner,
new caution to
be found.

months from the date of such intimation ; and on the death or insolvency of the cautioner of any factor, such factor shall forthwith give notice in writing to the accountant of such death or insolvency, and the accountant shall, as soon as the fact shall come to his knowledge, by means of such notice or otherwise, require new caution to be found.

Examination
of estate by
accountant.

12. The accountant shall see that the factor lodges a rental, list, and inventory in terms of this Act, and shall, along with the factor, or his agent, examine, verify, and adjust, and with the factor sign the same, and shall ascertain the circumstances of the estate, and call for all necessary documents, so as to form a clear rule of charge against the factor at the commencement of his office, and the accountant shall retain such rental, list, and inventory.

Accountant
to audit the
accounts.

13. The accountant shall see that the factor's accounts of charge and discharge, with the vouchers thereof, are duly lodged, and shall thereafter examine the same without undue delay, and audit the account on the general principles of good ordinary management for the real benefit of the estate and of those interested therein, and he shall consider the investments of the estate and the sufficiency thereof, and he shall be entitled to require from the factor all necessary information and evidence, and he shall fix the amount of the factor's commission for the period embraced by the audit, according to his opinion of what is just in each particular case, and he shall strike the balance and shall state the result of his audit in the form of a short report, and if he has made any corrections on the account, he shall, if required by the factor, explain such corrections, and his reasons for making them.

Rules of exact
diligence may
be dispensed
with.

14. The accountant shall have power, upon report to and with the approval of the lord ordinary where the sum involved exceeds twenty pounds, and without such report and approval where the sum involved is less than twenty pounds, to dispense with the rules of exact diligence in any matter of factorial management.

Accountant's
report conclu-
sive against
factor, if not
objected to.
Reference to
lord ordinary,
and subsequent
proceedings, if
objections are
lodged.

15. The accountant's audit and report shall be conclusive against the factor and his cautioner, if written objections shall not be lodged by the factor with the accountant within twenty days from the date of such audit and report being communicated to the factor ; but if objections be lodged, the accountant shall consider the same, and may alter his report, if he sees cause ; and unless the objections are allowed or departed from, the account and report and whole proceedings shall be transmitted by the accountant to the lord ordinary, who shall call the factor or his agent, and if necessary the accountant, before him at chambers in reference thereto, and the lord ordinary or the court, if the matter shall be reported or brought under review, may affirm, vary, or reverse the audit and report of the accountant, and may reserve any question or questions which are raised in the objections for

the factor till the final audit of his accounts, directing the account to be balanced for the present, as the lord ordinary or the court may think expedient and just; and no judgment of the lord ordinary pronounced as aforesaid shall be subject to review at the instance of the accountant, nor, in case the lord ordinary shall reserve any question as aforesaid, shall it be competent to the factor to reclaim against such reservation; but in case the lord ordinary shall decide against the factor, he may bring the interlocutor under review of the court, by a short note of appeal from the lord ordinary's judgment, and the judgment of the court shall not be subject to appeal at this stage, nor till the termination of the factory, without the leave of the court: Provided always, with reference to such discussion between the accountant and the factor, that at the audit of the factor's accounts, at the termination of his factory, it shall be competent to the factor and his representatives, or to any succeeding factor, or to any parties beneficially interested in the estate, to enter upon such matter of objection, if the same has been reserved, but if the same has been decided by the lord ordinary or the court, the decision shall not be opened up except upon cause shown; and the factor shall not be entitled to charge the expence of any such proceedings against the estate, without the special authority of the lord ordinary or the court.

16. It shall be lawful for the cautioner to appear and be heard before the accountant during the course of the audit, or to state objections to the audit within twenty days from the date of the report being intimated to the factor as aforesaid, unless the accountant shall grant further time, not exceeding six weeks; and for the purpose of stating such objections the accountant shall, if required, furnish to the cautioner a copy of his report, and the expence of such copy, and of any discussion that shall take place during or after the audit at the instance of the cautioner, shall be borne by the cautioner, and not by the estate: Provided always, that no objection stated on the part of the cautioner shall be any ground for delaying any consignment of any balance ordered by the accountant, or otherwise giving immediate effect to the audit.

Cautioner may state objections to audit.

17. Either at the termination of the factory, or during its subsistence, it shall be competent for any party beneficially interested in the estate, or for any succeeding factor, to make appearance, and upon cause shown to open up the audit of all accounts which have been audited by the accountant in absence of such party or succeeding factor, and also all questions in the accounting which have either not been submitted to the decision of the lord ordinary or the court or been reserved, and also all questions which have been decided merely as between the accountant and the factor, or between the factor and some other beneficiary, reserving always to the factor and his representatives their answers and defences as accords of law; but if such party or succeeding factor shall so appear, and such question

Re-opening of accounts.

shall be opened up and decided, the judgment, if pronounced between the factor and a party beneficially interested, shall be final and conclusive as between them and their representatives, and if pronounced between the factor and succeeding factor, shall be final and conclusive against the factor and the estate.

Annual report of judicial factories.

18. The accountant shall make an annual report to the Court of Session, containing such particulars as he may think fit, or as the court may by act of sederunt or otherwise require, of all judicial factories, whether granted before or after the passing of this Act, then subsisting or remaining unsettled, and of his own proceedings in reference to the same, and such annual report shall be printed at the cost of the fee fund established by this Act.

Accountant to make requisitions and orders on the factor.

19. The accountant shall make all such requisitions or orders on the factor as he may consider necessary; and if such requisition or order shall be disobeyed or neglected, he shall report the same to the lord ordinary, giving previous notice to the factor or his agent, who shall lodge objections in writing, if he any has, within forty-eight hours after such notice; and the lord ordinary is hereby empowered, on considering such requisition or order, with the objections thereto, if any, to recal or vary, confirm or repeat, such requisition or order; and the interlocutor of the lord ordinary shall be final and conclusive against the accountant, and also against the factor, unless he shall, at the time of pronouncing judgment, give notice of his intention to bring the judgment under review, in which case the lord ordinary shall dispose of the matter of expences, and give any interim order that may be necessary, which interim order shall not be subject to review.

Accountant to report factor's failure in duty, or any claims against a factor.

20. The accountant shall, at all times when requisite, report to the lord ordinary or the court any disobedience of any requisition or order, and any misconduct or failure in duty on the part of a factor, or any claims arising against a dismissed factor or factor's cautioner, or against the representatives of a factor or cautioner deceased; and it shall be competent for the lord ordinary or the court, on the accountant's report, to deal immediately with the matter as accords of law.

On reasonable suspicion of malversation, &c., case to be submitted to Lord Advocate.

21. If the accountant shall possess information that shall lead him on reasonable grounds to suspect malversation or misconduct on the part of the factor, such as may infer removal or punishment, he shall be entitled to lay a case before her Majesty's advocate, who shall have power to direct such inquiry, and to take such proceedings, by petition and complaint, or otherwise, as he shall think proper.

[*S. 22 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Informal settlements,

23. In regard to all factories constituted before the passing of this Act, any settlement made of any such factory, though

informal, shall be held as a *prima facie* discharge to the factor, and the accountant shall not report the same as a subsisting factory, or require further proceedings therein, but reserving the right of all parties interested in the estate to show cause to the accountant or the court why such settlement should not be held as a discharge to the factor, in which case, if the cause shown shall be satisfactory to the accountant or the court, the factory shall be held as subsisting and be proceeded with; and in any such factory in which, though there has been no settlement, it shall appear that no benefit is likely to be derived by the parties interested in the estate from farther proceedings therein, and no party interested shall make appearance and require such proceedings, the accountant shall place amongst the papers connected with the estate a memorandum of the circumstances, and shall state in his report that further proceedings are for the present unadvisable.

&c. in factories constituted before the passing of this Act.

[S. 24 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

25. Except as to the mode of appointment and caution, the provisions of this Act relating to judicial factors, or relating to the office, powers, and duties of the accountant appointed by this Act, shall be applicable, in so far as the same admit of application, to every person who after the passing of this Act shall be served tutor of law to any pupil, or appointed tutor-dative to any pupil or insane person or idiot, or served curator to any insane person or idiot.

Provisions of this Act applied to tutors of law, tutors-dative, and curators.

26. In every service of a person as tutor of law to a pupil, or as curator to an insane person or idiot, there shall, besides the obligations usually inserted therein, be inserted in the bond of caution taken by the clerk in such service an obligation to observe and perform every duty incumbent on such person, in terms of the rules prescribed or to be prescribed for the discharge of his office in all respects, together with a consent to registration in the books of council and session for execution; and such bond of caution shall be transmitted, with the other steps of procedure, to the director of Chancery, who shall forthwith transmit the same to the accountant; and no extract of the retour in such service shall be given out, nor any letters of tutory or curatory to be issued thereon, until such bond of caution shall have been received by the director of Chancery; and in bond of caution to be taken in the Court of Exchequer from tutors-dative to pupils or insane persons or idiots there shall, besides the usual obligations, be inserted an obligation to the effect aforesaid; and such bonds of caution shall remain in the Court of Exchequer, according to the rules of that court.

Bonds of caution for tutors of law, curators, and tutors-dative.

27. It shall be lawful for the Court of Session or Court of Exchequer, as the case may be, to limit upon cause shown the caution to be found by factors and tutors and curators to a specified amount, and also to authorize, if they shall deem it

Limitation of caution.

expedient, bonds or policies of the British Guarantee Association, or other public company incorporated by Act of Parliament or royal charter carrying on guarantee business within Scotland, to be accepted and taken instead of bonds of caution by private individuals.

Certified copy of letters of tutory or curatory to establish a summary process in regard to the estate.

28. Whenever the director of Chancery shall issue letters of tutory or curatory, proceeding on any service or gift dated after the passing of this Act, he shall transmit a certified copy of such letters to the accountant, who, after making an entry thereof in his books, shall transmit the same to one of the principal clerks of session, in order of seniority, and by rotation; and such certified copy, when so transmitted, shall be held as establishing a summary process in regard to the estate to which such letters relate before that division of the court to which such clerk shall belong, to the same effect as if the tutor or curator to whom such letters are issued had been appointed judicial factor by the court on a petition in ordinary form; and such certified copy shall be held for the purposes of this Act as equivalent to such appointment.

[S. 29 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*)]

Rental, list, and inventory, &c., to be equivalent to tutorial or curatorial inventory, &c., under Scots Act of 1672.

30. The rental, list, and inventory lodged with the accountant in terms of this Act by any tutor or curator as aforesaid shall be held as equivalent to the tutorial or curatorial inventory directed to be given up by an Act of the Scottish Parliament, passed in the year one thousand six hundred and seventy-two, intituled "Act concerning pupils and minors, and their tutors and curators;" and the report of any additional funds or property belonging to the pupil or insane person or idiot, in terms of this Act, shall be held as equivalent to an eik to a tutorial or curatorial inventory in terms of the said recited Act, which is hereby repealed, in so far as may be necessary to give effect to these enactments, but no farther.

Resignation and removal of tutors and curators.

31. The court shall have power, on cause shown, to remove or accept the resignation of any tutor or curator coming under the provisions of this Act, and to appoint a factor loco tutoris or curator bonis in his room.

Right and responsibility of tutor not altered, except as provided.

32. Nothing herein contained shall be held to confer on any such tutor or curator a right not now existing in law to remuneration for the discharge of the duties attached to his office, or to limit his powers or alter the rules of his responsibility as by law now existing, excepting in so far as is herein expressly provided.

Power to accountant to inspect entries as to estates in bank books.

33. The accountant shall have power to require the officers of any bank with which any factor or tutor or curator shall have opened an account for the estate under his care to exhibit all entries in the books of such bank connected with such estate, and the officers of such bank are hereby required to exhibit the same accordingly, and to allow the accountant to take such copies thereof as he may require.

34. It shall be competent for any factor, tutor, or curator, at the termination of his office, to present a petition to the court for his discharge, calling all persons interested in the estate, so far as known to him, as parties to such petition, and the court shall order such intimation and service as they may think fit; and it shall be competent to any persons so called, or to any other persons showing right and interest, to appear as parties, and upon cause shown to open up the audit of the factor's accounts, and thereafter, and after receiving the report of the accountant, and making any further inquiry which may be necessary, the court shall pronounce judgment thereon; and such judgment, if it shall discharge such factor, tutor, or curator, shall be final and conclusive against all parties concerned, though pronounced in absence, provided the same shall not be opened up as a decree in absence in the Court of Session within the time limited for appealing to the House of Lords, or shall not be appealed from within that time.

Discharge of
factor, tutor,
or curator.

35. The accountant shall be the custodier of all bank deposit receipts and other vouchers for sums of money already placed or to be hereafter placed in bank under authority of the court, and of all judicial bonds of caution and other judicial bonds granted or to be granted under the authority of the court or any of the judges thereof, or in reference to the business thereof, and all other documents of a like nature, which, according to the present law or practice, are entrusted to the keeping of the senior principal clerk of session, who, after the commencement of this Act, shall cease to discharge his present duty as custodier of such documents, and shall transfer all such documents as are in his possession to the accountant; and thereafter the clerk in each process in which consignment is made shall lodge all such bank receipts and bonds or vouchers in the hands of the accountant, whose acknowledgment therefor shall be an acquittance to such clerk.

Accountant to
be custodier of
bank receipts
and other
vouchers for
money, bonds
of caution, &c.

36. The whole records and papers relating to factories, tutories, and curatories retained in the accountant's office shall be open to inspection on payment of such fees as may be fixed by the court, but shall remain in the office, and not be lent out unless under authority of the court or of the lord ordinary; and copies therefrom, attested by the accountant, shall have the same authority as the originals themselves, and shall be furnished to any party requiring the same, on payment therefor of such fees as may be fixed by the court; and such fees for inspection and attested copies shall be paid weekly by the accountant into the fund herein-after established.

Records in the
accountant's
office to be
open for in-
spection.

37. Every bank in Scotland with which any money shall have been or shall be deposited or lodged by any judicial factor, tutor, or curator, or under authority of any court in Scotland, or with reference to any suit in any court in Scotland, whether on deposit receipt or on account current, or otherwise, shall once at

Accumulation
of principal and
interest on
accounts and
deposits.

least in every year accumulate the interest with the principal sum, so that both shall thereafter bear interest together as principal; and any bank failing so to do shall be liable to account as if such money had been so accumulated.

Provision for
accountant's
illness or tem-
porary absence.

38. In case of the illness or temporary absence of the accountant the Lord President of the Court of Session, or other judge acting as president for the time, may authorize any one of the accountant's clerks or other qualified person to discharge the duties of the accountant for the time.

[*S. 39 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

Acts of
sederunt.

40. It shall be competent to the Court of Session, and they are hereby authorized and required, from time to time to pass such acts of sederunt as shall be necessary or proper for the further regulation of the manner of appointing judicial factors, and the manner of discharging their duty, and the manner of discharging the duties of the accountant, and the manner of applying the provisions of this Act to the case of tutors and curators, and the forms of process to be used in pursuance of this Act, and the manner of verifying by affidavit, declaration, certificate, or otherwise, the sufficiency of the caution offered for factors, tutors, and curators, and all other matters requisite for more effectually carrying out the purposes of this Act.

[*S. 41 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LIII.

AN ACT for consolidating and amending several of the Laws relating to Attornies and Solicitors in Ireland.^[1]

[28th July 1849.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

No solicitor in
Ireland to
commence an
action for fees
until one
month after
delivery of his
bill.

2. No solicitor, nor any executor, administrator, or assignee of any solicitor, shall commence or maintain any action or suit for the recovery of any fees, charges, or disbursements for any business done by such solicitor, until the expiration of one month after such solicitor, or executor, administrator, or assignee of such solicitor, shall have delivered unto the party to be charged therewith, or sent by the post to or left for him at his counting-house, office of business, dwelling house, or last known place of abode, a bill of such fees, charges, and disbursements, and which bill shall either be subscribed with the proper hand of such

[¹ Short title, "The Solicitors (Ireland) Act, 1849." See 55 & 56 Vict. c. 10.]

solicitor, (or, in the case of a partnership, by any of the partners, either with his own name or with the name or style of such partnership,) or of the executor, administrator, or assignee of such solicitor, or be enclosed in or accompanied by a letter, subscribed in like manner, referring to such bill; and upon the application of the party chargeable by such bill within such month it shall be lawful, in case the business contained in such bill or any part thereof shall have been transacted in the High Court of Chancery, or in any other court of equity, or in any matter of bankruptcy or lunacy, or in case no part of such business shall have been transacted in any court of law or equity, for the Lord High Chancellor or the Master of the Rolls, and in case any part of such business shall have been transacted in any other court, for the Courts of Queen's Bench, Common Pleas, or Exchequer, or any judge of either of them, and they are hereby respectively required, to refer such bill, and the demand of such solicitor, executor, administrator, or assignee thereupon, to be taxed and settled by the proper officer of the court in which such reference shall be made, without any money being brought into court; and the court or judge making such reference shall restrain such solicitor, or executor, administrator, or assignee of such solicitor, from commencing any action or suit touching such demand pending such reference; and in case no such application as aforesaid shall be made within such month as aforesaid, it shall be lawful for such reference to be made as aforesaid, either upon the application of the solicitor, or the executor, administrator, or assignee of the solicitor, whose bill may have been so as aforesaid delivered, sent, or left, or upon the application of the party chargeable by such bill, with such directions, and subject to such conditions as the court or judge making such reference shall think proper; and such court or judge may restrain such solicitor, or the executor, administrator, or assignee of such solicitor, from commencing or prosecuting any action or suit touching such demand pending such reference, upon such terms as shall be thought proper: Provided always, that no such reference as aforesaid shall be directed upon an application made by the party chargeable with such bill after a verdict shall have been obtained or a writ of inquiry executed in any action for the recovery of the demand of such solicitor, or executor, administrator, or assignee of such solicitor, or after the expiration of twelve months after such bill shall have been delivered, sent, or left as aforesaid, except under special circumstances, to be proved to the satisfaction of the court or judge to whom the application for such reference shall be made; and upon every such reference, if either the solicitor, or executor, administrator, or assignee of the solicitor, whose bill shall have been delivered, sent, or left, or the party chargeable with such bill, having due notice, shall refuse or neglect to attend such taxation, the officer to whom such reference shall be made may proceed to tax and settle such bill and demand ex parte; and in

Reference of
bill to proper
officer for
taxation.

Limitation of
taxation.

Costs.

case any such reference as aforesaid shall be made upon the application of the party chargeable with such bill, or upon the application of such solicitor, or the executor, administrator, or assignee of such solicitor, and the party chargeable with such bill shall attend upon such taxation, the costs of such reference shall, except as hereinafter provided for, be paid according to the event of such taxation; that is to say, if such bill when taxed be less by a sixth part than the bill delivered, sent, or left, then such solicitor, or executor, administrator, or assignee of such solicitor, shall pay such costs; and if such bill when taxed shall not be less by a sixth part than the bill delivered, sent, or left, then the party chargeable with such bill, making such application or so attending, shall pay such costs; and every order to be made for such reference as aforesaid shall direct the officer to whom such reference shall be made to tax such costs of such reference to be so paid as aforesaid, and to certify what upon such reference shall be found to be due to or from such solicitor, or executor, administrator, or assignee of such solicitor, in respect of such bill and demand, and of the costs of such reference, if payable: Provided also, that such officer shall in all cases be at liberty to certify specially any circumstances relating to such bill or taxation, and the court or judge shall be at liberty to make thereupon any such order as such court or judge may think right respecting the payment of the costs of such taxation: Provided also, that where such reference as aforesaid shall be made when the same is not authorized to be made except under special circumstances, as hereinbefore provided, then the said court or judge shall be at liberty, if it shall be thought fit, to give any special directions relative to the costs of such reference: Provided also, that it shall be lawful for the said respective courts and judges, in the same cases in which they are respectively authorized to refer a bill which has been so as aforesaid delivered, sent, or left, to make such order for the delivery by any solicitor, or the executor, administrator, or assignee of any solicitor, of such bill as aforesaid, and for the delivery up of deeds, documents, or papers in his possession, custody, or power, or otherwise touching the same, in the same manner as has heretofore been done as regards such solicitor, by such courts or judges respectively, where any such business had been transacted in the court in which such order was made: Provided also, that it shall not in any case be necessary in the first instance for such solicitor, or the executor, administrator, or assignee of such solicitor, in proving a compliance of this Act, to prove the contents of the bill he may have delivered, sent, or left, but it shall be sufficient to prove that a bill of fees, charges, or disbursements, subscribed in the manner aforesaid, or enclosed in or accompanied by such letter as aforesaid, was delivered, sent, or left in manner aforesaid; but nevertheless it shall be competent for the other party to show that the bill so delivered, sent, or left was not such a bill as constituted a *bonâ fide* compliance with this Act.

Courts may order solicitor to deliver up deeds, &c.

Evidence of delivery of bill sufficient, without proof of contents.

3. Where any person not the party chargeable with any such bill within the meaning of the provisions herein-before contained shall be liable to pay or shall have paid such bill, either to the solicitor, his executor, administrator, or assignee, or to the party chargeable with such bill as aforesaid, it shall be lawful for such person, his executor, administrator, or assignee, to make such application for a reference for the taxation and settlement of such bill as the party chargeable therewith might himself make; and the same reference and order shall be made thereupon, and the same course pursued in all respects, as if such application was made by the party so chargeable with such bill as aforesaid: Provided always, that in case such application is made when under the provisions herein contained a reference is not authorized to be made except under special circumstances, it shall be lawful for the court or judge to whom such application shall be made to take into consideration any additional special circumstances applicable to the person making such application, although such circumstances might not be applicable to the party so chargeable with the said bill as aforesaid if he were the party making the application.

Taxation of
bills upon
application of
third parties.

4. It shall be lawful, in any case in which a trustee, executor, or administrator has become chargeable with any such bill as aforesaid, for the Lord High Chancellor or the Master of the Rolls, if in his discretion he shall think fit, upon the application of a party interested in the property out of which such trustee, executor, or administrator may have paid or been entitled to pay such bill, to refer the same, and such solicitor's, or executor's, administrator's, or assignee's demand thereupon, to be taxed and settled by the proper officer of the High Court of Chancery, with such directions and subject to such conditions as such judge shall think fit, and to make such order as such judge shall think fit for the payment of what may be found due, and of the costs of such reference, to or by such solicitor, or the executor, administrator, or assignee of such solicitor, by or to the party making such application, having regard to the provisions herein contained relative to applications for the like purpose by the party chargeable with such bill, so far as the same shall be applicable to such cases; and in exercising such discretion as aforesaid the said judge may take into consideration the extent and nature of the interest of the party making the application: Provided always, that where any money shall be so directed to be paid by such solicitor, or the executor, administrator, or assignee of such solicitor, it shall be lawful for such judge, if he shall think fit, to order the same or any part thereof to be paid to such trustee, executor, or administrator so chargeable with such bill, instead of being paid to the party making such application; and when the party making such application shall pay any money to such solicitor, or executor, administrator, or assignee of such solicitor, in respect of such bill, he shall have the same right to be paid by such trustee, executor, or administrator so chargeable with such bill as

Taxation of
bills charge-
able on trus-
tees, executors,
&c.

such solicitor, or executor, administrator, or assignee of such solicitor, had.

Copy of bill to be delivered to third party applying for taxation.

5. For the purpose of any such reference upon the application of the person not being the party chargeable within the meaning of the provisions of this Act as aforesaid, or of a party interested as aforesaid, it shall be lawful for such court or judge to order any such solicitor, or the executor, administrator, or assignee of any such solicitor, to deliver to the party making such application a copy of such bill, upon payment of the costs of such copy: Provided always, that no bill which shall have been previously taxed and settled shall be again referred, unless, under special circumstances, the court or judge to whom such reference is made shall think fit to direct a re-taxation thereof.

Payment of bill not to preclude reference to taxation under special circumstances.

6. The payment of any such bill as aforesaid shall in no case preclude the court or judge to whom application shall be made from referring such bill for taxation, if the special circumstances of the case shall in the opinion of such court or judge appear to require the same, upon such terms and conditions and subject to such directions as to such court or judge shall seem right, provided the application for such reference be made within twelve calendar months after payment.

Assistance of other officers in taxing.

7. In all cases in which such bill shall have been referred to be taxed and settled, the officer to whom such reference is made shall be at liberty to request the proper officer of any other court having such an officer to assist him in taxing and settling any part of such bill, and such officer so requested shall thereupon proceed to tax and settle the same, and shall have the same powers in respect thereof as upon a reference to him by the court of which he is such officer, and shall return the same, with his opinion thereon, to the officer who shall have so requested him to tax and settle the same.

Form of application and effect of taxation.

8. All applications made under this Act to refer any such bill as aforesaid to be taxed and settled, and for the delivery of such bill, and for the delivering up of deeds, documents, and papers, shall be made in the matter of such solicitor; and upon the taxation and settlement of any such bill the certificate of the officer by whom such bill shall be taxed shall (unless set aside or altered by order, decree, or rule of court,) be final and conclusive as to the amount thereof, and payment of the amount certified to be due and directed to be paid may be enforced according to the course of the court in which such reference shall be made; and in case such reference shall be made in any court of common law it shall be lawful for such court or any judge thereof to order judgment to be entered up for such amount, with costs, unless the retainer shall be disputed, or to make such other order thereon as such court or judge shall deem proper.

9. In the construction of this Act the word "month" shall be taken to mean a calendar month; and every word importing the singular number only shall extend and be applied to several persons, matters, or things, as well as one person, matter, or thing; and every word importing the plural number shall extend and be applied to one person, matter, or thing, as well as several persons, matters, or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "person" shall extend to any body politic, corporate, or collegiate, municipal, civil, or ecclesiastical, aggregate or sole, as well as an individual; unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

[S. 10 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LIX.

AN ACT to amend an Act of the Tenth Year of Her Majesty, for facilitating the Improvement of Landed Property in Ireland. [1] [28th July 1849.]

[*Preamble recites* 10 & 11 *Vict. c.* 32.]

[1.] In any proceedings which have been or shall be taken for recovery of any rent-charge under the said Act a certificate under the hand of the Paymaster of Civil Services in Ireland for the time being, or of such person as the Treasury may from time to time appoint, (of which appointment notice to be published in the Dublin Gazette shall be sufficient evidence,) certifying that a loan has been made or agreed to be made under the said Act, and certifying the amount thereof, and the number and amount of the instalments advanced on account of such loan, and the annual amount of rent-charge payable in respect thereof, and the lands charged with such rent-charge, and how much is due in respect thereof, shall be conclusive evidence of the matters therein certified as aforesaid.

Evidence as to amount of loan and rent-charge, and as to lands charged. S.L.R. 1954

2. In any proceedings which have been or shall be taken on any security given in respect of the expences of obtaining a report upon and investigating the subject of any application for a loan under the said Act, or on any bond or other security given for the due application of monies advanced or to be advanced under the said Act, the certificate of the Commissioners of Public Works in Ireland, under their common seal, certifying the amount of the expences of obtaining such report upon and investigating the subject of such application for a loan under the said Act, including all expences consequent upon any

Evidence as to amount of expences, or amount advanced and not accounted for.

[1] Short title, "The Landed Property Improvement (Ireland) Act, 1849." See 55 & 56 *Vict. c.* 10.]

such investigation, or (as the case may be) certifying the amount of the monies advanced by the said commissioners, and the amount of such monies the application of which shall not have been accounted for to the said commissioners according to the condition of such bond or other security, shall be conclusive evidence of the matters therein certified as aforesaid.

In case of neglect, commissioners may order that the loan, or the amount not advanced, shall not be issued.

3. In any case in which an order for a loan shall have been made by the said commissioners under the said Act, and the person for the time being entitled to the benefit of such order shall neglect to comply with the provisions of the said Act or the rules and regulations of the said commissioners for the purpose of obtaining any advance or instalment in respect of such loan, or if after any such instalment or instalments shall have been advanced by the Paymaster of Civil Services such person shall, after notice by the said commissioners of his default in this behalf, neglect to proceed with the works for which such loan shall have been made or agreed to be made, with such diligence and expedition as shall be satisfactory to the said commissioners, it shall be lawful for the said commissioners, (if they think fit so to do,) by order under their common seal, to direct that the amount of such loan, or such part thereof as shall be then remaining unpaid, shall not be issued; and thereupon the monies applicable to such loan, or to the residue of such loan, as the case may be, may be applied to other loans under the provisions of the said Act.

Alterations of works.

4. It shall be lawful for the said commissioners, upon the application of the owner, where it shall appear to them expedient so to do, from time to time to sanction the alteration or modification of any plan, specification, or estimate originally approved of by them in relation to any works for which any loan has been agreed or ordered to be made under the said Act or in substitution, in whole or in part, for any such plan, specification, and estimate, to sanction and approve of a plan, specification, and estimate for other works for any of the purposes in the said Act mentioned, and to direct the works to be carried on according to the plan, specification, and estimate so altered or modified or substituted as aforesaid; and the provisions of the said Act applicable in the case of an alteration or modification of any plan, specification, or estimate whereby the advance of a further sum of money is required for the completion of any works, or the expenditure is diminished, shall be applicable, under the like circumstances, in the case of any alteration, modification, or substitution made under this Act.

[*S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Construction with recited Act 12 & 13 Vict. c. 23.

6. The said recited Act and this Act shall be construed together as one Act; and all loans made for the purposes of the said recited Act out of any money authorized to be advanced under any Act authorizing loans to be made for the purposes of

the said recited Act, shall, for the purposes of the provisions of the said recited Act and of this Act applicable to the loans under the said recited Act, be deemed to have been made under such Act.

[S. 7 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXIV.

AN ACT to remove Doubts as to the Authority of Justices of the Peace to act in certain Matters relating to the Poor in Cities and Boroughs. [28th July 1849.]

[*Preamble recites* 43 *Eliz. c.* 2.]

[1.] Notwithstanding anything in the said Act contained, all powers and authorities which by the said Act may be exercised out of general or quarter sessions by two or more justices of any county may be exercised within any city or borough by any two or more justices of the peace having jurisdiction within such city or borough respectively, as fully in all respects as by the justices of the county in or for any parish of such county.

Powers of borough justices as to poor.

[S. 2, 3 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXVI.

AN ACT for enabling Colonial Legislatures to establish Inland Posts.[¹] [28th July 1849.]

[*Preamble recites* 5 *Geo. 3. c.* 25 ; 7 *Will. 4 & 1 Vict. c.* 33 ; 3 & 4 *Vict. c.* 96 ; 7 & 8 *Vict. c.* 49.]

[1.] It shall be lawful for the legislatures or proper legislative authorities of Her Majesty's colonies, or any of them, by Acts, laws, or ordinances to be from time to time for that purpose made and enacted, in the manner and subject to the conditions by law required in respect of Acts, laws, or ordinances of such legislatures or legislative authorities, to make such provisions as such legislatures or legislative authorities may think fit for and concerning the establishment, maintenance, and regulation of posts or post communications within such colonies respectively, and for charging rates of postage for the conveyance of letters by such posts or post communications, and for appropriating the revenue to be derived therefrom.

Colonial legislatures may pass laws as to postal communication.

[¹ Short title, "The Colonial Inland Post Office Act, 1849." See 55 & 56 *Vict. c.* 10.]

In certain cases, colonial laws not to take effect until assented to by her Majesty.

2. Provided always, that where in any colony her Majesty's Postmaster General shall have actually established any post or post communication, and his powers and privileges in relation to such post or post communication shall not have determined under this Act, no such Act, law, or ordinance of the legislature or legislative authority of such colony in relation to the matters aforesaid, or any of them, shall take effect, unless the same shall be assented to by her Majesty, with the advice of her Privy Council, nor until the time when such assent shall be proclaimed in the colony, or such subsequent time as in the order of her Majesty in council by which the assent to such Act, law, or ordinance may be signified shall be fixed in this behalf.

After establishment of posts by colonial legislature rates of postage charged under recited Acts, &c., to cease.

3. Where, under the provision herein contained, the assent of her Majesty in council is required to such Act, law, or ordinance, the rates of postage charged in such colony under the Acts herein-before referred to, or any of them, or under any warrant or warrants of the Commissioners of her Majesty's Treasury issued in pursuance of such Acts or any of them, and the authority of such commissioners to fix the rates of postage to be charged in such colony, and the powers and privileges of her Majesty's Postmaster General, his deputies, servants, and agents, in relation to the posts or post communications within such colony, shall, from the time at which such Act, law, or ordinance shall take effect, cease and determine; and, save as aforesaid, the authority, powers, and privileges aforesaid shall cease and determine upon the passing of such Act, law, or ordinance, unless her Majesty shall think fit to disallow the same.

Colonial laws to extend only to inland posts.

4. Provided always, that no such Act, law, or ordinance as aforesaid shall affect the privileges, powers, or authorities of her Majesty's Postmaster General, his deputies, servants, or agents, or the Treasury, otherwise than as respects the posts or post communications within the limits of the colony by the legislature or legislative authority of which such Act, law, or ordinance shall be made and enacted, and the rates of postage to be charged for the transmission or conveyance of letters within such limits.

[S. 5 rep. 54 & 55 Vict. c. 67. (S.L.R.)]

Interpretation of terms.

3 & 4 Vict. c. 96.

6. In this Act the expression "her Majesty's colonies" shall be interpreted according to the meaning assigned to that expression by the Post Office (Duties) Act, 1840; and the term "letters" shall include letters and packets, newspapers, pamphlets, and other printed papers.

[S. 7 rep. 41 & 42 Vict. c. 79. (S.L.R.)]

CHAPTER LXVII.

AN ACT to extend the Remedies of Sequestrators of Ecclesiastical Benefices. [28th July 1849.]

[Preamble.]

[1.] Every sequestrator who shall be appointed by a bishop or other ordinary, or by any competent ecclesiastical court, to levy, collect, gather, or receive the profits of any ecclesiastical benefice, by virtue or in pursuance of any writ of fieri facias de bonis ecclesiasticis, levare facias de bonis ecclesiasticis, sequestrari facias, or of any sequestration made or issued by authority of law, may and is hereby authorized and empowered, from time to time, to bring and prosecute any action at law ~~or~~ suit in equity or levy any distress, or take any other proceeding, in his own name as the sequestrator of such benefice, without further description, for the recovery of any tithes, tithe rent-charge, tithe composition or substitution, obvention, pension, portion, or other payment for or in the nature or in lieu of tithe, or any other rent or annual sum, dues, or fees payable to the incumbent of such benefice, or of any messuages, lands, tenements, or hereditaments subject to such sequestration, or of any rent due or payment reserved or made payable to the incumbent of such benefice under any lease of or covenant or agreement to let any such messuages, lands, tenements, or hereditaments, tithes, tithe rent-charge, or other parcel of the benefice to which the appointment of such sequestrator relates: Provided always, that nothing herein contained shall be construed to empower the sequestrator of any benefice to bring, prosecute, levy, or take any action, suit, distress, or other proceeding, by virtue of this Act, except against the incumbent of such benefice, which might not lawfully have been brought, prosecuted, levied, or taken by the incumbent of such benefice, if such benefice had not been under sequestration: Provided also, that no sequestrator appointed under a sequestration issued at the suit or instance of any creditor shall be bound to commence, prosecute, levy, or take any action, suit, distress, or other proceeding as aforesaid, under the provisions of this Act, unless and until security, to be approved by such sequestrator, shall be given by the creditor at whose suit or instance such sequestration shall have been issued, for indemnifying such sequestrator and the bishop or other ordinary or ecclesiastical court from all costs, charges, and expences incurred or to be incurred in the commencement, prosecution, or conduct of such action, suit, or distress, or other proceeding, to which he or they respectively may become liable in consequence thereof, the expence of such security to be deducted or allowed out of any money to be received by the creditor by virtue of such action, suit, distress, or other proceeding.

Sequestrator enabled to sue, &c. in his own name for tithes, rent, &c. due to incumbent.

Provisions as to actions by sequestrator.

2. The payment or render to such sequestrator lawfully entitled, with or without suit, by the party thereunto liable, of

Payments to sequestrator.

any such tithe, tithe rent-charge, tithe composition or substitution, rent, dues, fees, or payment, shall effectually discharge the party making the same from all liability to the incumbent of such benefice in respect thereof; and such sequestrator shall and may apply and shall account for the monies received or arising under or by virtue of any such render, payment, or recovery, in like manner as other goods and profits of the benefice liable to sequestration: Provided always, that nothing herein contained shall make any alteration in the law respecting the application of the money received by a sequestrator, or the security to be given by him for his duly accounting for the same.

[S. 3 rep. 38 & 39 Vict. c. 66. S.L.R.)]

CHAPTER LXXII.

AN ACT further to amend the Acts relating to the Offices of the House of Commons. [28th July 1849.]

[*Preamble recites 52 Geo. 3. c. 11; 9 & 10 Vict. c. 77; and that certain fees or sums payable in the House of Commons are paid into the Bank of England to the account of the Commissioners for regulating the Offices of the House of Commons.*]

Monies standing to account of Commissioners for regulating the offices of the House of Commons to be carried to the Consolidated Fund.

[1.] . . . all the money which shall stand to the credit of the said account at the Bank of England on the first day of January, the first day of April, the first day of July, and the first day of October, in every year, shall from time to time on the said respective days, or within two days afterwards, and at such other times as the Speaker of the House of Commons shall direct, be transferred by the Bank of England to the account of her Majesty's Exchequer, and when so transferred shall be carried to and form part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

[Ss. 2, 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Salaries, &c. to be paid out of monies to be provided by Parliament.

4. . . . all the salaries and superannuation and other allowances and expences now payable out of the money so paid to the said account of the Commissioners for regulating the Offices of the House of Commons shall be paid out of such monies as Parliament shall from time to time provide for those purposes.

Salaries, &c. to be paid by Paymaster General.

5. . . . the salaries, allowances, superannuations, charges, and expences of the House of Commons shall be paid by the Paymaster General, in such manner and at such times as the Speaker of the House of Commons or the said commissioners shall direct, out of any money which the Treasury shall direct to be issued for those purposes.

Audit by Speaker of accounts of receiver of fees.

6. The audit by the Speaker of the House of Commons of the accounts of the receiver of the fees and sums payable in the several offices and departments of the House of Commons shall

be deemed and taken to be in all respects good and effectual without any further audit of the said accounts, and shall be a sufficient discharge and acquittance to the said receiver as to all matters and things contained in such accounts, anything contained in any Act to the contrary in anywise notwithstanding.

[*S. 7 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXXVIII.

AN ACT for the more effectual Taxation of Costs on Private Bills in the House of Lords, and to facilitate the Taxation of other Costs on Private Bills in certain Cases.^[1]

[28th July 1849.]

[*Preamble refers to costs and expences in respect of "bills subject to the payment of fees in Parliament, commonly called private bills."*]

2. No parliamentary agent or solicitor, nor any executor, administrator, or assignee of any parliamentary agent or solicitor, shall commence or maintain any action or suit for the recovery of any costs, charges, or expences in respect of any proceedings in the House of Lords in any future session of Parliament relating to any petition for a private bill, or private bill, or in respect of complying with the standing orders of the said House relative thereto, or in preparing, bringing in, and carrying the same through, or opposing the same in, the House of Lords, until the expiration of one month after such parliamentary agent, or solicitor or executor, administrator, or assignee of such parliamentary agent or solicitor, has delivered unto the party to be charged therewith, or sent by post to or left for him at his counting-house, office of business, dwelling-house, or last known place of abode, a bill of such costs, charges, and expences, and which bill shall either be subscribed with the proper hand of such parliamentary agent or solicitor, or in the case of a partnership by any of the partners, either with his own name or with the name of such partnership, or of the executor, administrator, or assignee of such parliamentary agent or solicitor, or be enclosed in or accompanied by a letter subscribed in like manner referring to such bill: Provided always, that it shall not in any case be necessary, in the first instance, for such parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, in proving a compliance with this Act, to prove the contents of the bill delivered, sent, or left by him, but it shall be sufficient to prove that a bill of costs, charges, and expences, subscribed in manner aforesaid, or enclosed in or accompanied

Parliamentary agent or solicitor not to sue for costs in relation to private bill in the House of Lords until one month after delivery of his bill.

Proof of delivery of bill sufficient.

[¹ Short title, "The House of Lords Costs Taxation Act, 1849." See s. 15.]

Power to judge
to authorize
action before
expiration of
one month.

by such letter as aforesaid, was delivered, sent or left, in manner aforesaid, but nevertheless it shall be competent for the other party to show that the bill so delivered, sent, or left was not such a bill as constituted a *bonâ fide* compliance with this Act: Provided also, that it shall be lawful for any judge of the superior courts of law or equity in England or Ireland, or of the Court of Session in Scotland, to authorize a parliamentary agent or solicitor to commence an action or suit for the recovery of his costs, charges, and expences against the party chargeable therewith, although one month has not expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said judge that there is probable cause for believing that such party is about to quit that part of the United Kingdom in which such judge hath jurisdiction.

Taxing officer
to be appointed
by the clerk of
the Parliaments
or clerk as-
sistant.

3. The clerk of the Parliaments, when discharging the duties of his office in person, or in his absence the clerk assistant, shall appoint a fit person to be the taxing officer of the House of Lords; and every person so appointed shall hold his office during the pleasure of the clerk of the Parliaments or clerk assistant, and shall execute the duties of his office conformably to such directions as he may from time to time receive from the clerk of the Parliaments or clerk assistant.

Clerk of
Parliaments or
clerk assistant
to prepare list
of charges
allowed.

4. The clerk of the Parliaments, when discharging the duties of his office in person, or in his absence the clerk assistant, may from time to time prepare a list of such charges as it shall appear to him, that parliamentary agents, solicitors, and others, may justly make with reference to the several matters comprised in such list; and the several charges therein specified shall be the utmost charges thenceforth to be allowed upon the taxation of any such bill of costs, charges, and expences in respect of the several matters therein specified: Provided always, that the said taxing officer may allow all fair and reasonable costs, charges, and expences in respect of any matters not included in such list.

Taxing officer,
empowered to
examine parties
and witnesses
on oath, &c.

5. For the purpose of any such taxation the said taxing officer may examine upon oath any party to such taxation, and any witnesses who may be examined in relation thereto, and may receive affidavits, sworn before him or before any master or master extraordinary of the High Court of Chancery, relative to such costs, charges, or expences; and any person who on such examination on oath or in any such affidavit shall wilfully or corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Taxing officer
empowered to
call for books
and papers.

6. The said taxing officer shall be empowered to call for the production of any books or writings in the hands of any party to such taxation relating to the matters of such taxation.

Taxing officer
to take fees
allowed by
House of Lords,

7. It shall be lawful for the said taxing officer to demand and receive for any such taxation such fees as the House of Lords may from time to time by any order authorize and direct, and

to charge the said fees, and also to award costs of such taxation, against either party to such taxation, or in such proportion against each party as he may think fit, and he shall pay and apply the fees so received by him in such manner as shall be directed by any such order as aforesaid.

8. If any person upon whom any demand shall be made by any parliamentary agent, or solicitor, or executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, for any costs, charges, or expences in respect of any proceedings in the House of Lords in any future session of Parliament relating to any petition for a private bill, or private bill, or in respect of complying with the standing orders of the said House relative thereto, or in preparing, bringing in, or carrying the same through, or in opposing the same in, the House of Lords, or if any parliamentary agent, or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, who shall be aggrieved by the nonpayment of any costs, charges, and expences incurred or charged by him in respect of any such proceedings as aforesaid, shall make application to the said taxing officer at his office for the taxation of such costs, charges, and expences, the said taxing officer, on receiving a true copy of the bill of such costs, charges, and expences which shall have been duly delivered as aforesaid to the party charged therewith, shall in due course proceed to tax and settle the same; and upon every such taxation, if either the parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, by whom such demand shall be made as aforesaid, or the party charged with such bill of costs, charges, and expences, having due notice, shall refuse or neglect to attend such taxation, the said taxing officer may proceed to tax and settle such bill and demand *ex parte*; and if pending such taxation any action or other proceeding shall be commenced for the recovery of such bill of costs, charges, and expences, the court or judge before whom the same shall be brought, shall stay all proceedings thereon until the amount of such bill shall have been duly certified by the clerk of the Parliaments or clerk assistant as herein-after provided: Provided always, that no such application shall be entertained by the said taxing officer if made by the party charged with such bill after a verdict shall have been obtained or a writ of inquiry executed in any action for the recovery of the demand of any such parliamentary agent or solicitor, or the executor, administrator, or assignee of such parliamentary agent or solicitor, or other person, or after the expiration of six months after such bill shall have been delivered, sent or left as aforesaid: Provided also, that if any such application shall be made after the expiration of six months as aforesaid, it shall be lawful for the clerk of the Parliaments or clerk assistant aforesaid, if he shall so think fit, on receiving a report of special

and charge them to the parties or one of them.

On application of party chargeable, the taxing officer to tax the bill.

Action commenced pending taxation to be stayed till the amount due is certified.

Limitation of taxation.

Taxation after six months in special circumstances.

circumstances from the said taxing officer, to direct such bill to be taxed.

Report to clerk of the Parliaments, and certificate of amount.

9. The said taxing officer shall report his taxation to the clerk of the Parliaments or clerk assistant as aforesaid, and in such report shall state the amount fairly chargeable in respect of such costs, charges, and expences, together with the amount of costs and fees payable in respect of such taxation as aforesaid, and shall also state in such report the amount due in respect of the said costs, charges, and expences; and within twenty-one clear days after any such report shall have been made either party may deposit in the office of the clerk of the Parliaments a memorial, addressed to the clerk of the Parliaments or clerk assistant as aforesaid, complaining of such report or any part thereof, and such clerk of the Parliaments or clerk assistant as aforesaid may, if he shall so think fit, refer the same, together with such report, to the said taxing officer, and may require a further report in relation thereto, and on receiving such further report may direct the said taxing officer, if necessary, to amend his report; and if no such memorial be deposited as aforesaid, or so soon as the matters complained of in any such memorial shall have been finally disposed of, such clerk of the Parliaments or clerk assistant as aforesaid shall, upon application made to him, deliver to the party concerned therein, and requiring the same, a certificate of the amount so ascertained, which certificate shall be binding and conclusive on the parties as to the matters comprised in such taxation, and as to the amount of such costs charges, and expences, and the amount due in respect of the same, and of the costs and fees payable in respect of such taxation, in all proceedings at law or in equity or otherwise; and in any action or other proceeding brought for the recovery of the amount so certified to be due such certificate shall have the effect of a warrant of attorney to confess judgment; and the court in which such action shall be commenced, or any judge thereof, shall, on production of such certificate, order judgment to be entered up for the sum specified in such certificate, in like manner as if the defendant in any such action had signed a warrant to confess judgment in such action to that amount: Provided always, that if such defendant shall have pleaded that he is not liable to the payment of such costs, charges, and expences, such certificate shall be conclusive only as to the amount thereof which shall be payable by such defendant in case the plaintiff shall in such action recover the same.

Provision where any bill of costs taxable under this Act or 10 & 11 Vict. c. 69, comprises costs not taxable under the Act whereby such bill is made taxable.

10. If any bill of costs taxable by virtue of this Act, or of the House of Commons Costs Taxation Act, 1847, shall comprise any costs, charges, and expences incurred in respect of a private bill, but not taxable by virtue of the Act in pursuance whereof such bill shall come to be taxed, it shall be lawful for the taxing officer of the House of Lords, or for the taxing officer of the House of Commons, as the case may be, either to tax and settle such last-mentioned costs, charges, and expences, or to request

the taxing officer of the other House of Parliament, or the proper officer of any other court having such an officer, to assist him in taxing and settling any part of such bill; and such officer so requested shall thereupon proceed to tax and settle the same, and shall return the same, with his opinion thereupon, to the officer who shall have so requested him to tax and settle the same; and in taxing such costs, charges, and expences the taxing officer of the House of Lords and the taxing officer of the House of Commons respectively shall have the same powers, and may receive the same fees in respect of such taxation, as if such costs, charges, and expences were taxable by virtue of this Act, or of the House of Commons Costs Taxation Act, 1847, as the case may be; and the proper officer of any court so requested to tax the same shall have the same powers, and may receive the same fees, as upon a reference from the court of which he is such officer.

11. The taxing officer of the House of Lords, or the taxing officer of the House of Commons, as the case may be, may include the amount of such last-mentioned costs, charges, and expences in the report of his taxation of any such bill of costs; and in case the clerk of the Parliaments or clerk assistant, or the Speaker of the House of Commons, as the case may be, shall deliver a certificate of the amount so ascertained and declared in such report, including such last-mentioned costs, charges, and expences, such certificate shall have the same force and effect as if the whole of such bill of costs were taxable by virtue of the Act in pursuance whereof such certificate shall be so delivered.

Such costs to have effect as if taxable under the Act under which certificate is issued.

12. In case the taxing officer of the House of Lords, or the taxing officer of the House of Commons, shall be requested by the proper officer of any other court to assist him in taxing and settling any costs, charges, and expences incurred in respect of a private bill, being part of any bill of costs which shall have been referred to him by the court of which he is such officer, such taxing officer so requested shall thereupon proceed to tax and settle the same, and shall return the same, with his opinion thereupon, to the officer who shall have so requested him to tax and settle the same, and shall have the same powers, and may receive the same fees, in respect of such taxation, as if application had been made to him for the taxation thereof in pursuance of this Act, or of the House of Commons Costs Taxation Act, 1847, as the case may be.

Officers of other courts may request the taxing officer of either House to tax costs in relation to private bills included in other bills of costs.

13. It shall be lawful for the taxing officer of the House of Lords, and for the taxing officer of the House of Commons, to take an account between the parties to any taxation under this Act, or the House of Commons Costs Taxation Act, 1847, of all sums of money paid or received in respect of any bill of costs which is the subject of such taxation, or any matters contained therein, and to report the amount of all such sums of money, and the amount due in respect of such bills of costs.

10 & 11 Vict. c. 69.

Account between the parties of all sums paid or received in respect of any bill of costs.

Interpretation.

14. In the construction of this Act the word "month" shall be taken to mean a calendar month; and every word importing the singular number only shall extend and be applied to several persons, matters, or things, as well as one person, matter, or thing; and every word importing the plural number shall extend and be applied to one person, matter, or thing, as well as several persons, matters, or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "person" shall extend to any body politic, corporate, or collegiate, municipal, civil, or ecclesiastical, aggregate or sole, as well as an individual; and the word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other person allowed by law to make a declaration instead of taking an oath; unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Short title.

15. In citing this Act in other Acts of Parliament, and in legal and other instruments, it shall be sufficient to use the expression "The House of Lords Costs Taxation Act, 1849."

[*S. 16 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXXXIII.

AN ACT further to facilitate the Inclosure of Commons, and the Improvement of Commons and other Lands.^[1]

[1st August 1849.]

[*Preamble recites 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; 10 & 11 Vict. c. 111; 11 & 12 Vict. c. 99.*]

Valuers may declare to what parishes lands or roads to be allotted, &c., by award shall belong.

[**1.**²] It shall be lawful for the valuer in any matter of inclosure, with the approbation of the Inclosure Commissioners for England and Wales, to declare by his award how much and which part of any of the lands to be allotted, divided, or dealt with by such award, or of any roads passing over or through the same or any part thereof, shall be and be deemed to be situate in any parish or parishes in which any of the land so to be divided, allotted, or dealt with shall be situate; and after the date of the confirmation of such award so much and such part of such lands and roads shall be and be deemed part of the parish or parishes in which such award shall declare them to be situate: Provided always, that no such declarations as aforesaid shall be made in any award, where it shall appear to the said Inclosure Commissioners that there is any dispute or difference as to the parish or parishes in which such land or road, or any part thereof respectively, to be dealt with by such declaration, is situated:

Declarations not to be made in cases of dispute.

[¹ Short title "The Inclosure Act, 1849." See 55 & 56 Vict. c. 10.]

[² In this section "parish" or "parishes" mean district or districts having a separate surveyor or surveyors of the highways, 15 & 16 Vict. c. 79. s. 28.]

Provided also, that no award containing such declaration as aforesaid shall be confirmed by the Inclosure Commissioners, where it shall appear to them that the boundaries of any counties would be affected by such declaration, until notice in writing under the hand of the valuer of his intention to insert the same in his award shall have been served upon the respective clerks of the peace of the counties the boundaries of which may be affected by such declaration, or shall have been left at their respective offices of business; and if within the space of fourteen days after the holding of the next general quarter sessions for each of such counties, or of the last of such respective sessions, a requisition in writing under the hand of the clerk of the peace of either of such counties, and countersigned by the chairman who shall have presided at such quarter sessions as aforesaid holden for the same county, requiring the omission of such declaration from such award, shall be sent to the Inclosure Commissioners, such commissioners shall not confirm such award with such declaration as aforesaid therein.

Declarations affecting boundaries of counties not to be confirmed until after notice given to clerks of the peace, nor if omission be required by quarter sessions.

2. Whenever persons interested in any land to be inclosed under the provisions of the said recited Acts shall be entitled to any similar rights of common or other similar rights over the lands to be inclosed, and it shall appear to the valuer in the matter of such inclosure that it would be for the benefit of such persons to be dealt with as a class in the matter of such inclosure, it shall be lawful for the said Inclosure Commissioners, on the representation of the said valuer, to call a meeting of the persons interested, for the purpose of ascertaining whether two thirds in number of the persons present at such meeting shall be desirous of being dealt with as a class; and the commissioners shall, if they shall so think fit, appoint an assistant commissioner to be present and reside at such meeting, and to take the votes of the persons present thereat; and such assistant commissioner (if any), or the chairman of the meeting, shall report to the said commissioners whether two thirds in number of the persons present at such meeting are desirous of being dealt with as a class as aforesaid; and if it shall appear that two thirds of such persons are desirous of being dealt with as a class, it shall be lawful for the commissioners, by an order under their seal, if they shall so think fit, to direct that the persons entitled to such similar rights of common or other similar rights as aforesaid shall be dealt with as a class; and after such order all the provisions of the said recited Acts applicable to a class shall be applicable to the persons so interested in the matter of such inclosure, as if they had been a class under the provisions of the said recited Acts.

Persons having similar rights of common, &c. may be dealt with as a class.

3. And whereas doubts have arisen whether, under the provisions of the said first-recited Act, after a meeting shall have been holden to give instructions to a valuer in the matter of any inclosure, any other meeting after such first can be

Meetings to give instructions to valuer.

holden for the purpose of giving further instructions to such valuer in the matter of such inclosure: Be it declared and enacted, that in all cases where in the matter of any inclosure a meeting shall have been holden for the purpose of giving such instructions, it shall be lawful for the said commissioners to call other meetings to give further instructions to the valuer in the matter of any inclosure, subject to all the provisions of the said first-recited Act as regards the first meeting held for the purpose aforesaid, so far as the same shall be applicable to the second or any subsequent meeting; and when any instructions shall have been given previously to the passing of this Act to the valuer in the matter of any inclosure at a meeting for such purpose subsequent to the first instructions, and allowed by the said commissioners, the same shall be as valid and of the same force and effect as if they had been given at the first meeting called for such purpose; provided that the commissioners shall not allow any instructions given at any second or subsequent meeting whereby any arrangement entered into or made by the first instructions for the protection or convenience of any persons interested in the inclosure shall be prejudicially affected, if such persons after such reasonable notice to be given for that purpose as the commissioners shall think fit, shall signify in writing to the commissioners their dissent from such subsequent instructions.

Powers under local Acts to be applicable to proceedings under 6 & 7 Will. 4. c. 115.

4. All the powers and authorities in anywise enabling the said commissioners to complete proceedings under any local Act of inclosure shall be applicable to proceedings commenced under the provisions of an Act passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled "An Act for facilitating the inclosure of open and arable fields in England and Wales."

Allotment to lord of manor in lieu of quit rents, &c. payable out of old inclosures or lands to be allotted.

5. It shall be lawful for the said commissioners in the matter of any inclosure, by the provisional order, or by any other order under their seal, to declare that an allotment or allotments in lieu of quit rents, chief rents, or heriots shall be given to the lord of the manor to whom such quit rents, chief rents, or heriots are payable out of any old inclosure in respect of which an allotment would be made, or would have been payable out of any allotments on the confirmation of the award, and the valuer shall upon the issue of such provisional or other order set out such allotment or allotments; provided always, that no such allotment in lieu of such quit rents, chief rents, or heriots shall be made except with the consent of such lord.

Application of balance of money raised by sale of land for expences of inclosure.

6. Where any monies shall have been raised by sale of land in the matter of any inclosure for the expences thereof, and any balance out of such monies shall after the payment of such expences remain in the hands of the Inclosure Commissioners, it shall be lawful for the said commissioners to pay the same to the persons interested, in such proportions and under such restrictions or conditions as they shall deem just.

7. All the provisions of the said recited Acts applicable to the powers of exchange and partition under the said recited Acts shall extend and be applicable to the exchange of all rights of common, rights of fishing, manorial and other rights, and all easements over any land, and all quit rents, chief rents, heriots, tithes, and rent-charges, for any other of the said rights, easements, and things, whether of the same or a like or different nature, or for land, and also to the partition of the same respectively; and when two or more persons shall be interested jointly, severally, as a class, or in common, in any rights or property proposed to be exchanged or partitioned under this or the said recited Acts, the application of two thirds in value of the persons so interested jointly, severally, as a class, or in common, as aforesaid, shall be deemed the application of all persons interested or having any estate therein.

Exchange and partition of rights, easements, &c.

8. Where lands proposed to be inclosed under the said recited Acts shall consist of separate tracts of open and common arable, meadow, and pasture lands or fields, entirely or in part, or of common or waste lands subject to rights of common, entirely or in part, or shall otherwise consist of separate and distinct tracts, and it shall appear to the said commissioners that two thirds in value of the persons interested in the entirety of such tracts shall have assented to the proposed inclosure on the terms and conditions in their provisional order specified, it shall be lawful for the said commissioners, if they shall see fit, to proceed therewith.

Separate tracts.

9. All the provisions of the said recited Acts applicable to the ascertaining, setting out, and fixing the boundaries of any parish or manor in which the land proposed to be inclosed, or any part thereof, shall be situate, and of any parish or manor adjoining thereto, shall extend and be applicable to the ascertaining, setting out, and fixing of the boundaries of any township, vill, hamlet, or tithing, not having separate overseers of the poor, and of a manor, although the same shall not abut or adjoin upon any other manor.

Fixing of boundaries of townships, &c.

10. If in any case, after the valuer acting in the matter of any inclosure shall under the authority and direction of the commissioners, and in manner provided by the said first-recited Act, have ordered all or any part of the rights of sheep-walk, common or other rights, in or over the land to be inclosed, or any part thereof, to be extinguished, or the exercise thereof to be suspended, or after such valuer shall under the authority of the same Act have directed any allotment to be made in such inclosure to be entered upon by the person for whom the same shall be intended, any person, other than and except, as to any allotment directed to be entered upon, the person for whom such allotment is intended, shall exercise any act of ownership upon or in respect of any land the rights in, upon, or over which shall have been so extinguished or shall be so suspended, or any land so directed to be entered upon, whether by erecting huts or other

Penalty on persons exercising acts of ownership after rights are ordered to be extinguished or suspended, or allotments directed to be entered upon.

buildings or erections thereon, or by putting up fences, or digging therein, on being convicted thereof before two justices of the peace having jurisdiction in the county or place, shall forfeit and pay for and in respect of every such act of ownership such sum of money, not exceeding five pounds, as such justices shall think proper to inflict by way of penalty, and such sum shall be paid to the valuer, to be applied by him in aid of the expences in such inclosure, or to the person lawfully in possession of such allotment, as the justices may think fit and direct; and the justices may by their order legally vest any property or effects erected or placed upon the land by the exercise of any such act of ownership in the valuer, to be removed, sold, and applied by him in aid of such expences, or in the person lawfully in possession of such allotment, as the justices may think fit and direct; [*Part of section incorporating provisions of 7 & 8 Geo. 4. c. 30. rep. 39 & 40 Vict. c. 20. s. 1, which substitutes other provisions.*]: Provided always, that no remedy which any person in possession of the land under a direction by the valuer to enter thereon might otherwise have in respect of any such act of ownership, under the fourthly above-recited Act or otherwise, shall be in any manner prejudiced or affected by the provision last herein-before contained.

Lands held under separate titles, or for distinct interests, &c., may be exchanged.

11. And whereas doubts have arisen whether, under the said recited Acts, a person interested in several subject matters of exchange, but held under separate titles, or for distinct and separate interests, or subject to separate charges or incumbrances, can effect an exchange thereof: Be it declared and enacted, that the person so interested as aforesaid may effect exchanges of such several subject matters of exchange, in such and the same manner as if different persons had been interested therein.

Construction.

12. This Act shall be taken to be a part of the said recited Acts, and be construed therewith.

CHAPTER LXXXV.

AN ACT to amend an Act for the Regulation of Municipal Corporations in Ireland, so far as relates to the Borough of Dublin.

[1st August 1849.]

[*Preamble recites 3 & 4 Vict. c. 108; 6 & 7 Vict. c. 93.*]

[*S. 1 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

No burgesses to be enrolled unless qualified under this Act.

2. No person shall be enrolled a burgess of the said borough of Dublin for the purpose of enjoying the rights conferred for the first time by the said recited Acts or either of them, or this Act in respect of any title, other than by occupancy and payment of rates within such borough according to the meaning and provisions of this Act.

Qualification of burgesses.

3. Every male person of full age who on the last day of August in any year shall have occupied any house, warehouse

counting-house, or shop within such borough of Dublin during that year and the whole of each of the two preceding years, and also during the time of such occupation shall have been an inhabitant householder within the said borough, or within seven statute miles of the said borough of Dublin, shall, if duly enrolled in that year according to the provisions of the said recited Acts, be a burgess of such borough, and member of the body corporate of the mayor, aldermen, and burgesses of such borough: Provided always, that no such person shall be so enrolled in any year unless he shall have been rated in respect of such premises so occupied by him within the said borough to all rates made for the relief of the poor of the electoral division or union wherein such premises are situated during the time of his occupation as aforesaid, and unless he shall have paid on or before the last day of August as aforesaid, all such of the rates, cesses, and taxes specified in the schedule to this Act annexed as shall have become payable by him (if any) in respect of the said premises, except such as shall become payable within six calendar months next before the said last day of August: Provided also, that the premises in respect of the occupation of which any person shall have been so rated need not be the same premises or in the same parish, but may be different premises in the same parish or in different parishes: Provided also, that no person being an alien shall be so enrolled or vote in any year, and that no person shall be enrolled or vote in any year who within twelve calendar months next before the said last day of August shall have received relief under the Acts for the more effectual relief of the destitute poor in Ireland, or any pension or charitable allowance from any fund intrusted to the charitable trustees of such borough: Provided also, that in every case provided in this Act the distance of seven statute miles shall be computed by the nearest public road or way by land or water.

4. No medical or surgical assistance given by the charitable trustees of the said borough shall be taken to be such charitable allowance as shall disqualify any person from being enrolled a burgess, nor shall any person be so disqualified by reason that any child of such person shall have been admitted and taught within any public or endowed school.

5. It shall be lawful for any person occupying any house, warehouse, counting-house, or shop to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering to the collector thereof, or to the person or persons entitled to receive the same, the full amount of the last made rate then payable in respect of such premises, the guardians or other persons charged with making any rate for the relief of the destitute poor which shall or ought to include such premises are hereby required to put the name of such occupier upon the rate for the time being; and in case any such guardians or other persons shall neglect or refuse so to do, such occupier

Aliens, and persons who have received poor law relief, not to be enrolled.

Medical assistance or instruction in endowed schools not to be a cause of disqualification.

Occupiers may claim to be rated.

shall nevertheless for the purposes of the said recited Acts and this Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: Provided always, that where by virtue of any Act of Parliament the landlord shall be liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord, but, in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate payable in respect thereof, such landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant.

Misnomers, &c.
in rate book
not to invali-
date right to be
enrolled.

6. [*Recital.*] Where any person shall have occupied such premises as in this Act are mentioned for the time hereinbefore mentioned next previous to the last day of August in any year, being the person liable to be rated for such premises, shall have been *bonâ fide* called upon in respect to such premises to pay, and shall have *bonâ fide* paid on or before the last day of August in such year, all rates for the relief of the poor made in respect of such premises which he would be required to pay in order to be enrolled as a burgess for the borough of Dublin if he had been named in such rate as the occupier of such premises, such person shall be considered as having been rated to the relief of the poor and paid all such rates in respect of such premises within the meaning of the said recited Act and this Act, and be entitled, if otherwise qualified, to be enrolled as a burgess of the said borough in respect of such premises in any year, any misnomer or insufficient description in any rate of the person so occupying, or of the premises occupied, notwithstanding.

In case of title
by descent, &c.,
how occupa-
tion is to be
reckoned.

7. Where any house, warehouse, counting-house, or shop in the said borough shall come to any person by descent, marriage, marriage settlement, devise, or promotion to any benefice or office, such person shall be entitled to reckon the occupancy and rating in respect of the occupancy thereof by the person from or by whom such house, warehouse, counting-house, or shop shall have so come to him as his own occupancy and rating conjointly with the time during which he shall have since occupied and been rated for the same, and shall be entitled to be enrolled a burgess in respect of such successive occupancy and rating, provided he shall be otherwise qualified as herein provided.

[S. 8 *rep.* 57 & 58 *Vict. c.* 56. (*S.L.R.*)]

Representation
of wards.

9. . . . for each ward of the said borough there shall be one alderman and three councillors.

Town clerk to
prepare a book
containing the

10. On or before the eighth day of September in every year the town clerk of the said borough of Dublin shall, in a book or

books to be by him provided for that purpose, enter the names of all persons who shall appear to be entitled to be enrolled as burgesses of such borough in the burgess roll then next to be made, in right of occupancy and payment of rates within such borough, according to the meaning and provisions of this Act, with the premises in respect whereof they may be so entitled, in the manner and subject to the provisions in the said secondly-recited Act contained relating to the book or books thereby directed to be prepared by the town clerk; and the several provisions of the said secondly-recited Act as to the proceedings to be taken as to such book or books, and the attendance of collectors of rates, cesses, or taxes, or of other officers relating thereto, and as to any penalties for nonattendance, and as to the notices to be given concerning such book or books, and as to inspection thereof or copies or extracts therefrom, or other matters relating thereto, shall extend and apply for the purposes of this Act, save and except so far as the said provisions may relate to any rates, cesses, or taxes not included in the Schedule to this Act annexed, or the collectors thereof, which last-mentioned collectors shall not be required to attend for the purposes of preparing such book or books.

names of persons entitled to be burgesses.

11. On or before the twentieth day of September in every year, in the said borough of Dublin, the town clerk of such borough shall make out, from the assessment to be made of hereditaments within such borough under the Acts for the more effectual relief of the destitute poor in Ireland, alphabetical lists, according to the Form Number 1 in the Schedule (D.) to the said first recited Act annexed, or to the like effect, of all persons, with their respective residences, who shall be entitled to be enrolled in the burgess roll of that year for the said borough, according to the provisions of this Act, in respect of property within each ward of such borough, excluding nevertheless from such lists the name of every person who shall not appear by the entries made in the book or books herein-before mentioned to have paid all rates, cesses, or taxes by this Act required to be paid in order to qualify such person to be or to be enrolled as a burgess of such borough, and shall sign such lists, and shall on the said twentieth day of September in every year, deliver a true copy of such lists, signed by himself, to the Lord Mayor of such borough and shall himself keep such original lists, to be perused by any person, without payment of any fee, at all reasonable hours between the twentieth and the thirtieth days of September in every such year.

Town clerks to make out lists in every year of persons qualified as burgesses.

12. The provisions of the said recited Acts or either of them relating to the lists of persons qualified as burgesses, and to claims and objections relating to the same, and the revision of such lists, and the enrolment of burgesses, and the formation of the burgess roll, and the several proceedings, matters and things relating to the same respectively, so far as the same are applicable, and subject to the variations made by this Act, shall be

Provisions of recited Acts to apply to the formation of the burgess roll;

also provisions
of first recited
Act for defray-
ing expenses of
this Act.

extended and applied to the lists of persons qualified as burgesses of the said borough of Dublin under this Act, and the qualification hereby provided, and the revision of such lists, and the enrolment of burgesses, and the formation of the burgess roll, and the several proceedings, matters, and things relating to the same respectively under the said Acts and this Act; and the provisions of the said first-recited Act relating to the providing for or defraying the expenses of putting the said first-recited Act into execution shall, in like manner, be applied to the providing for or defraying the expenses of putting this Act into execution in the said borough of Dublin.

[*Ss. 13-15 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

One third part
of the coun-
cillors in Dub-
lin to go out of
office annually.

16. Upon the twenty-fifth day of November in every year one third part of the number appointed as aforesaid to be the whole number of the councillors of every ward of the said borough of Dublin shall go out of office, and the burgesses then enrolled in the burgess roll for such ward shall elect the number of councillors needed to supply the vacancies thereupon existing in the number of councillors; and those who shall so first go out of office shall be the councillors who were elected under the provisions of this Act by the smallest number of votes at the first election; and in the next year those who shall go out of office shall be the councillors who were elected under the provisions of this Act by the next smallest number of votes at the first election, the majority of the whole council always determining when the votes for any such persons shall have been equal, or when there shall have been no contest, who shall be the persons so to go out of office; and thereafter those who shall so go out of office shall always be the councillors who have been for the longest time in office without re-election: Provided always, that any councillor so going out of office shall be capable of being forthwith re-elected, if then qualified as in the said first-recited Act provided.

Aldermen of
Dublin, how to
go out of office
every third
year.

17. In the said borough of Dublin on the twenty-fifth day of November in each third subsequent year after the year one thousand eight hundred and fifty such and such number of aldermen of the said borough shall go out of office, and such number of aldermen shall be elected to supply the vacancies thereby created, in such manner and subject to like provisions relating to the same, and to the re-election of any alderman, as in the said first-recited Act contained as to the aldermen of the said borough of Dublin.

[*Ss. 18, 19 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

Construction.
3 & 4 Vict.
c. 108.
6 & 7 Vict.
c. 93.

20. The Municipal Corporations (Ireland) Act, 1840, and the Municipal Corporations (Ireland) Act, 1843, and all clauses, matters, and things respectively contained therein and now in force, (save and except such parts thereof as are by this Act varied, altered, or repealed,) shall, so far as regards the said borough of Dublin, be and continue in full force and

effect, and shall be applied to this Act and the matters therein contained, so far as the same may be applicable, and the said recited Acts and this Act shall be construed together as one Act, and the provision made by the said first-recited Act for the interpretation of certain words and expressions therein shall apply and extend to the like words and expressions in this Act.

21. No person, by reason of being liable to the rate contributing to the borough fund of the said borough of Dublin, shall be deemed exempt or disqualified from acting as a juror or grand juror, or as a sheriff for the returning or impannelling of a jury or grand jury in or for the trial of any person for any offence against any law or statute, by reason of any penalty or forfeiture for or in consequence of such offence being applicable to the use of the borough fund of the said borough of Dublin, or in or for the trial of any case relating to any matter or thing that may be applicable to the use of such borough fund, or relating to any matter or thing whereby or by reason whereof any property may be or become applicable to the use of such borough fund; and no justice of the peace shall be disabled to act in the execution of the said recited Acts or this Act, or in the execution of any other Act, by reason of his being liable to the rate contributing to the borough fund of the said borough; and no member of the town council for the time being of the said borough of Dublin, by reason of his being a member of the town council, nor any justice assigned to keep the peace therein, by reason of his being such justice, shall be exempt or disqualified from serving on any jury summoned within the said borough.

Liability to borough rate not to be a ground of objection to any juror, grand juror, or sheriff, or justice acting as herein.

22. [*Recital of so much of 3 & 4 Vict. c. 109. s. 1, as provides that for the purposes of 3 and 4 Vict. c. 108, and that Act, all places locally situate or included within the boundaries of any of the said boroughs therein mentioned or any ward thereof should be deemed and taken to be part or parts of such borough or ward, and of no other county.*] Upon the true construction

of the said Acts in this provision mentioned all such places locally situate or included within the boundaries of the said borough as defined under the Municipal Corporations (Ireland) Act, 1840, now are and shall be deemed and taken to be part or parts of the county of the city of such borough, and of no other, for all purposes of criminal jurisdiction and also of civil jurisdiction of the superior courts of common law in Dublin, and for all other purposes whatsoever: Provided always, that nothing herein contained shall alter or affect the county of Dublin, or the county of the city of Dublin, or the boundaries thereof, for any purposes of parliamentary representation, or for any purpose relating thereto; and that where it shall be necessary for any purpose of such representation to describe any residence or premises or place, in any oath, affidavit, or document, or otherwise, as within the county of Dublin or the county of the city

Places within the boundaries of borough of Dublin to be part of county of city.
3 & 4 Vict. c. 108.

of Dublin, such residence, premises, or place may be described as within the parliamentary boundaries of the county of Dublin or the county of the city of Dublin respectively.

[S. 23 *rep.* 57 & 58 *Vict. c.* 56. (S.L.R.)]

Sect. 10. SCHEDULE to which the foregoing Act refers.

Rates, Cesses, or Taxes.

1. For paving and lighting.
2. For watering the streets.
3. Wide street tax, or any rate for widening or improving the streets, or any improvement rate that may by any Act or Acts be substituted for the three taxes or rates herein-before mentioned or any of them.
4. Grand jury cess, or any cess, applotment, or rate raised or levied for fiscal purposes of a like nature within the borough of Dublin.
5. Police tax or rate.
6. Borough rate.
7. Poor rates.

CHAPTER LXXXIX.

AN ACT to reduce the Number of Signatures required to Instruments issued by the Lords of the Treasury.^[1]

[1st August 1849.]

WHEREAS it is expedient to reduce the number of signatures required to warrants and other instruments issued by the Commissioners of her Majesty's Treasury:

Instruments, &c., required to be signed by the Commissioners of the Treasury, may be signed by any two or more.

[1.] Where any warrant, appointment, authority, approval, instrument, or act whatsoever is by any Act of Parliament or otherwise required to be issued, made, signified, or done by or under the hands of the said commissioners, or by or under the hands of any three or more of them, every such warrant, appointment, authority, approval, instrument, or act may be issued, made, signified, or done by or under the hands of any two or more of the said commisssioners, and when so issued, made, signified, or done as aforesaid shall be binding, and have the same effect, to all intents and purposes, as if issued, made, signified, or done by or under the hands of the said commissioners or by or under the hands of any three or more of them, as the case may require.

[¹ Short title, "The Treasury Instruments (Signature) Act, 1849." See 55 & 56 *Vict. c.* 10.]

CHAPTER XC.

AN ACT to amend the Laws relating to the Customs.

[1st August 1849.]

[*Whole Act except ss. 41-43 rep. 16 & 17 Vict. c. 107 s. 358. S. 41 rep. 38 & 39 Vict. c. 66 (S.L.R.). S. 42 rep. 57 & 58 Vict. c. clxxxvii.*]

43. And whereas by certain local Acts for establishing or regulating docks officers appointed under such Acts respectively are empowered to cause goods brought into such docks to be landed and warehoused as therein mentioned: Be it enacted, that no goods which shall be brought into any such docks shall be landed and warehoused without due entry thereof.

Goods brought
into docks
under local
Acts.

CHAPTER XCII.

AN ACT for the more effectual Prevention of Cruelty to Animals.[¹]

[1st August 1849.]

[*Preamble recites 5 & 6 Will. 4. c. 59; 7 Will. 4 & 1 Vict. c. 66.*]

[*S. 1 (repealing recited Acts) rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

2. If any person shall cruelly beat, ill-treat, over-drive, abuse, or torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any animal, every such offender shall for every such offence forfeit and pay a penalty not exceeding five pounds.

Penalty for
cruelty to
animals.

3. Every person who shall keep or use or act in the management of any place for the purpose of fighting or baiting any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature, or shall permit or suffer any place to be so used, shall be liable to a penalty not exceeding five pounds for every day he shall so keep or use or act in the management of any such place, or permit or suffer any place to be used as aforesaid; provided always, that every person who shall receive money for the admission of any other person to any place kept or used for any of the purposes aforesaid shall be deemed to be the keeper thereof; and every person who shall in any manner encourage, aid, or assist at the fighting or baiting of any bull, bear, badger, dog, cock, or other animal as aforesaid shall forfeit and pay a penalty not exceeding five pounds for every such offence.

Bull-baiting,
dog-fighting,
&c.

4. If any person shall, by cruelly beating, ill-treating, over-driving, abusing, or torturing any animal, do any damage or injury to such animal, or shall thereby cause any damage or injury to be done to any person or to any property, every such offender shall on conviction of such offence pay to the owner of such animal (if the offender shall not be the owner thereof), or

Compensation
for damage
done by cruelty
to animals.

[¹ Short title "The Cruelty to Animals Act, 1849." See 55 & 56 Vict. c. 10.]

to the person who shall sustain damage or injury as aforesaid, such sum of money by way of compensation, not exceeding the sum of ten pounds, as shall be ascertained and determined by the justice of the peace by whom such person shall have been convicted: Provided always, that the payment of such compensation, or any imprisonment for the nonpayment thereof, shall not prevent or in any manner affect the punishment to which such person or the owner of such animal may be liable for or in respect of the beating, ill-treating, or abusing of the said animal: Provided also, that nothing herein contained shall prevent any proceeding by action against such offender, or the employer of such offender, where the amount of damage or injury is not sought to be recovered under this Act.

Persons impounding animals to provide food and water.

5. Every person who shall impound or confine, or cause to be impounded or confined, in any pound or receptacle of the like nature, any animal, shall provide and supply during such confinement a sufficient quantity of fit and wholesome food and water to such animal; and every such person who shall refuse or neglect to provide and supply such animal with such food and water as aforesaid shall for every such offence forfeit and pay a penalty of twenty shillings.

Supplying food and water to animals impounded.

6. In case any animal shall at any time be impounded or confined as aforesaid, and shall continue confined without fit and sufficient food and water for more than twelve successive hours, it shall and may be lawful to and for any person whomsoever, from time to time, and as often as shall be necessary, to enter into and upon any pound or other receptacle of the like nature in which any such animal shall be so confined, and to supply such animal with fit and sufficient food and water during so long a time as such animal shall remain and continue confined as aforesaid, without being liable to any action of trespass or other proceeding, by any person whomsoever, for or by reason of such entry for the purposes aforesaid; and the reasonable cost of such food and water shall be paid by the owner of such animal, before such animal is removed, to the person who shall supply the same, and the said cost may be recovered in like manner as herein provided for the recovery of penalties under this Act.

26 Geo. 3 c. 71.

Penalty on persons licensed to keep places for slaughtering cattle, &c., for not affixing their names, &c.

7. [*Recital of so much of the Knackers Act, 1786, s. 2, as requires persons licensed under that Act to paint or affix their names, &c., over gate or door of licensed premises.*] Any person licensed as aforesaid who shall refuse or neglect to comply with the said recited provision of the said recited Act shall forfeit and pay for such offence a penalty not exceeding five pounds, and shall forfeit and pay a like penalty for every day during which such refusal or neglect shall continue, such penalties to be recovered as penalties under this Act are directed to be recovered.

Regulations as to treatment of horses or other

8. Every person keeping or using or acting in the management of any place for the purpose of slaughtering horses or other

cattle (not intended for butchers meat) shall, immediately upon any horse or other cattle being brought to or delivered at such place for the purpose of being slaughtered, cut off or cause to be cut off the hair from the neck of such horse or other cattle, and within three days from the time of such horse or other cattle being brought or delivered as aforesaid shall kill or cause to be killed the said horse or other cattle, and, until such horse or other cattle shall be killed, shall supply such horse or other cattle with a sufficient quantity of fit and wholesome food and water; and if any person keeping or using or acting in the management of any such place shall neglect or omit to cut or cause to be cut off the hair of the neck of such horse or other cattle, or to kill or cause to be killed any such horse or other cattle within the time above limited, or shall neglect or omit to supply a sufficient quantity of fit and wholesome food and water to such horse or other cattle as aforesaid, every such person shall on conviction of any or either of the said offences be liable to a penalty not exceeding five pounds.

cattle sent to
be slaughtered.

9. If any person keeping or using or having the management of any place for the purpose of slaughtering horses or other cattle (not intended for butchers meat) shall use or employ or cause or permit to be used or employed any horse or other cattle brought to or delivered at, or which shall be in or upon, such place for the purpose of being slaughtered, or shall permit or suffer any such horse or other cattle to leave the said place to be employed in any manner of work, every such person shall be liable to forfeit and pay a penalty not exceeding forty shillings for every day on which such horse or other cattle shall be so used or employed, or shall be absent from such place; and every person who shall be found using or employing any such horse or other cattle, or in the possession of any such horse or other cattle whilst so used or employed, shall be liable to forfeit and pay a penalty not exceeding forty shillings for every day he shall use or employ or be so possessed of any such horse or other cattle as aforesaid.

Horses or other
cattle sent to
be slaughtered
not to be
employed.

10. Every person keeping or using or having the management of any place for slaughtering horses or other cattle (not intended for butchers meat) shall, at the time of receiving any horse or other cattle in such place, enter in a book such a full and correct description of the colour, marks, and gender of such horse or other cattle as may clearly distinguish and identify the same; and if any such person shall refuse or neglect to make or cause to be made such entry in a clear and distinct manner, or shall refuse or neglect to produce such book before any justice of the peace whenever required by such justice so to do, or shall refuse to allow such book to be inspected, and extracts to be made therefrom, at all reasonable times, by any constable, or other person duly authorized by such justice, every such person shall be liable to forfeit and pay a penalty for every such offence not exceeding forty shillings.

Description of
cattle sent to
be slaughtered
to be entered
in a book.

Persons
licensed to
slaughter
horses not to
act as horse
dealers.

Penalty for
improperly
conveying
animals on
vehicles.

Apprehension
of offenders.

Limitation.

Summary
conviction.

Alternative
punishment on
summary con-
viction.

Detention and
sale of vehicle
used in com-
mission of
offence.

11. It shall not be lawful for any person who shall be licensed to slaughter horses, during the time while such licence shall be in force, to exercise or use the trade or business of a dealer in horses.

12. If any person shall convey or carry or cause to be conveyed or carried in or upon any vehicle any animal in such a manner or position as to subject such animal to unnecessary pain or suffering, every such person shall forfeit and pay a penalty not exceeding three pounds for the first offence, and a penalty of five pounds for the second and every subsequent offence.

13. When and so often as any of the offences against the provisions of this Act shall happen, it shall and may be lawful for any constable, upon his own view thereof, or upon the complaint and information of any other person who shall declare his or her name and place of abode to the said constable, to seize and secure by the authority of this Act any such offender, and forthwith without any other authority or warrant to convey such offender before a justice of the peace, to be dealt with by such justice for such offence according to law.

14. Every complaint under the provisions of this Act shall be made within one calendar month after the cause of such complaint shall arise; and every offence committed against this Act may be heard and determined by any justice of the peace within whose jurisdiction such offence shall be committed in a summary way.

[*Ss. 15-17 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

18. In every case of a conviction under this Act, where the sum imposed as a penalty, or the amount awarded for compensation or damage, together with costs (if any), by any justice of the peace, for or in respect of any offence against the provisions of this Act, shall not be paid immediately upon the conviction, or within such time as the convicting justice shall, in the exercise of his discretion, appoint and limit in that behalf, it shall be lawful for such justice, and he is hereby required, to commit the offender to the house of correction, there to be imprisoned, with or without hard labour, for any time not exceeding two calendar months, unless payment be sooner made: Provided always, that if such conviction shall take place before two justices, or before one of the police magistrates sitting at any police court within the metropolitan police district, it shall be lawful for such justices, or such police magistrate, if they or he shall think fit, instead of imposing a pecuniary penalty, forthwith to commit any such offender to the house of correction, there to be imprisoned with, or without hard labour, for any time not exceeding three calendar months.

19. Whenever any person having charge of any vehicle or any animal shall be taken into custody by any constable for any offence against the provisions of this Act, it shall be lawful for such constable to take charge of such vehicle or animal and

deposit the same in some place of safe custody, as a security for payment of any penalty to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expences which may have been or may be necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any justice of the peace before whom the case shall have been heard to order such vehicle or such animal to be sold for the purpose of satisfying such penalty and reasonable expences, in default of payment thereof, in like manner as if the same had been subject to be distrained, and had been distrained, for the payment of such penalty and expences.

20. In case any person shall at any time or in any manner unlawfully obstruct, hinder, molest, or assault any constable or keeper of a pound while in the exercise of any power or authority under or by virtue of this Act, every such person shall forfeit and pay a penalty not exceeding five pounds for every such offence.

Penalty for obstructing constables, &c.

21. All pecuniary penalties which shall be recovered before any justice of the peace under the provisions of this Act shall be respectively divided, paid, and distributed in the following manner; (that is to say,) one moiety thereof to the overseers of the poor of the parish in which the offence shall have been committed, to be by such overseers applied in aid of the rates of their respective parishes, and the other moiety thereof to the person who shall complain and prosecute for the same, or to such other person as to such justice shall seem fit and proper; and every sum of money which shall or may be ascertained, determined, adjudged, and ordered by any justice of the peace under the authority of this Act to be paid, as the amount of any damage or injury occasioned by the commission of any of the offences herein-before mentioned, shall be paid to the person who shall or may have sustained such damage or injury, according to the order or determination and discretion of such justice:

Distribution of penalties, &c.

22. When any complaint shall be made before any justice of the peace against the driver or conductor of any hackney carriage, or the driver or conductor of any stage carriage, or the driver of any cart, waggon, van, or other vehicle, for any offence committed by him against the provisions of this Act, it shall be lawful for such justice, if he shall think proper, forthwith to summon the proprietor of such hackney or stage carriage, or the owner of such cart, waggon, van, or other vehicle, to produce before him the driver, conductor, or other servant by whom such offence was committed, to answer such complaint; and in case such proprietor or owner, after being duly summoned, shall fail to produce the driver, conductor, or servant, it shall be lawful for the justice of the peace before whom such driver, conductor, or servant shall be required to be produced, if he shall think fit, to proceed, in the absence of such driver, conductor, or servant, to hear and determine the case, in the same manner as if he had been produced, and to adjudge payment, by the proprietor or

Liability of proprietor in case of offences committed by drivers of public carriages.

owner, of any penalty or sum of money and costs in which the driver, conductor, or servant shall be convicted; and any sum of money which shall be so paid by the proprietor or owner shall and may be recovered in a summary way from the driver, conductor, or servant through whose default such sum shall have been paid, upon proof of payment thereof, and of such servant's refusing or neglecting to be produced pursuant to the order of the justice, in the same manner as penalties are to be recovered under the provisions of this Act: Provided always, that if the said justice of the peace shall deem it proper, it shall be lawful for him, when such proprietor or owner shall fail to produce his driver, conductor, or servant, without any satisfactory excuse, to be allowed by such justice, to impose a fine of forty shillings upon such proprietor or owner, and so from time to time, as often as he shall be summoned in respect of such complaint, until he shall produce the said driver, conductor, or servant.

[*Ss. 23, 24 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Appeal to
quarter ses-
sions.

25. In all cases where the sum adjudged to be paid on any conviction shall exceed two pounds, and in all cases where imprisonment shall be adjudged, any person who shall think himself aggrieved by any such conviction may appeal to the next court of general or quarter sessions [¹ which shall be holden not less than fourteen days after the day of such conviction for the county, borough, or other jurisdiction wherein the cause of appeal shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person, if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein as to the court shall seem meet, and in case of the dismissal or nonprosecution of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be thereby awarded, and also the costs of such appeal, or incident thereto or occasioned thereby, and shall, if necessary, issue process for enforcing such judgment: Provided always, that it shall be lawful for the said court to adjourn the hearing of any such appeal to any succeeding sessions, if such court shall think fit; and such court, in the event of such postponement, may make any order for the payment of costs by either party to the other, as to such court shall seem reasonable.]

[¹ Part of s. 25 in brackets rep. as to E., 47 & 48 Vict. c. 43. s. 4.]

26. No conviction made under the authority of this Act, nor any order, judgment, or proceeding relative thereto, shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record; [¹ and no warrant of commitment under the provisions of this Act shall be held void by reason of any defect therein, provided it be therein alleged that the party committed has been convicted, and there be a good and valid conviction to sustain the same.]

Convictions,
&c., not to be
quashed for
want of form,
or removed by
certiorari, &c.

[*S. 27 rep. 56 & 57 Vict. c. 61. s. 2. S. 28 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

29. For the purposes of this Act the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter; (that is to say,)

Interpretation
of terms.

The word "justice" shall be taken to mean a justice of the peace or magistrate for the county, city, borough, liberty, cinque port, riding, or other jurisdiction, in which any offence against this Act shall be committed, or in which the matter requiring the cognizance of any justice of the peace or magistrate shall arise:

[²] The word "animal" shall be taken to mean any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal;

The word "constable" shall be taken to mean any headborough, parish beadle, peace officer, special constable, or any person belonging to the metropolitan or City of London police forces, or any constabulary force in any part of the United Kingdom:

The expression "house of correction" shall be taken to mean the house of correction or common gaol for the county, city, borough, liberty, cinque port, riding, or other jurisdiction, for which the justice of the peace by whom any person shall be committed under the provisions of this Act shall act:

And subject to the context, and to the nature of the subject matter, words denoting the singular number are to be understood to apply also to a plurality of persons, animals, or things; and words denoting the masculine gender are to be understood to apply also to persons and animals of the feminine gender; and the word "over-drive" shall also signify over-ride.

30. This Act shall not extend or apply to Scotland.

[*S. 31 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[¹ Part of s. 26 in brackets rep. as to E., 47 & 48 Vict. c. 43. s. 4.]

[² This definition is extended by 17 & 18 Vict. c. 60. s. 3.]

CHAPTER XCV.

AN ACT to amend the Law concerning Judgments in Ireland.^[1]
[1st August 1849.]

[*Preamble recites 5 & 6 Will. 4. c. 55. s. 31; 3 & 4 Vict. c. 105. ss. 19, 21, 22, 27.*]

[*S. 1. rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Recited provisions of 5 & 6 Will. 4. c. 55., and 3 & 4 Vict. c. 105. not to extend to judgments, &c. for sums not exceeding 150l.

2. The provisions herein-before recited of the said Acts of the sixth year of King William the Fourth and the fourth year of her Majesty shall not in anywise extend or be applicable to any judgment entered up after the passing of this Act in respect of any sum then actually due for principal and interest (exclusively of costs, and over and above all just and fair allowances,) not exceeding the sum of one hundred and fifty pounds, nor to any decree, order, or rule made after the passing of this Act, where the whole amount therein ordered to be paid shall not exceed one hundred and fifty pounds; and the judgments, decrees, orders, and rules respectively to which under this Act the provisions of the said Acts of the sixth year of King William the Fourth and the fourth year of her Majesty shall not extend or be applicable are herein-after respectively referred to as judgments, decrees, orders, and rules subject to the provisions of this Act.

What lands may be delivered in execution on judgments subject to this Act.

3. The sheriff or other officer to whom any writ of elegit, or any precept in pursuance thereof, is directed at the suit of any person, upon any judgment subject to the provisions of this Act recovered in any action in any of her Majesty's superior courts at Dublin, shall make and deliver execution unto the party in that behalf suing of all such lands, tenements, rectories, tithes, rents, and hereditaments only (including lands and hereditaments which may be of copyhold tenure) as the person against whom execution is so sued, or any person in trust for him, is seised or possessed of at the time when such writ of elegit is delivered to the sheriff or other officer to be executed, or over which the person against whom execution is so sued has at the time when such writ of elegit is delivered as aforesaid any disposing power which he might, without the assent of any other person, exercise for his own benefit, which lands, tenements, rectories, tithes, rents, and hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed by the party to whom such execution shall be so made and delivered, subject to such account in the court out of which such execution shall have been sued out as a party to whom execution is made and delivered under the recited provision of the said Act of the fourth year of her Majesty is made subject to under such provision.

Rights in equity of creditor under

4. Any creditor under a judgment subject to the provisions of this Act on which a writ of elegit has been sued out shall have

[¹ Short title, "The Judgments (Ireland) Act, 1849." See 55 & 56 Vict. c. 10.]

the same rights and remedies in equity, upon and in respect of such lands, tenements, and hereditaments as might under this Act be delivered in execution under such elegit, as such creditor might have had in respect of the lands, tenements, and hereditaments, or moiety of lands, tenements, and hereditaments, which might have been delivered in execution under a writ of elegit in case the recited provisions of the said Acts of the sixth year of King William the Fourth and of the fourth year of her Majesty had not been enacted.

5. In the administration in courts of equity of the assets of any person against whom any judgment subject to the provisions of this Act may be recovered, who shall die seised of or entitled to any estate or interest in lands, tenements, or hereditaments, the judgment creditor shall under such judgment have the same rights upon and in respect of such lands, tenements, or hereditaments as if this Act had not been passed.

Rights of judgment creditor under judgment in administration in equity of assets of judgment debtor.

6. Provided always, that every conveyance and other act whatsoever of and concerning lands, tenements, or hereditaments, which under an Act of the Parliament of Ireland passed in the tenth year of King Charles the First, intituled "An Act against covenous and fraudulent conveyances," would be deemed void against purchasers for money or other good consideration, shall be void as against any judgment creditor whose judgment shall have been entered up before such conveyance or other act, and the like execution and other remedies may be had under such judgment, in respect of such lands, tenements, and hereditaments as if such conveyance or other act had not been made or done: Provided also, that nothing herein contained shall in anywise affect the provisions of the same Act concerning conveyances and other acts had or made to the intent to delay, hinder, or defraud creditors.

Conveyances, &c. void against purchasers under 10 Chas. I. sess. 2. (I.) c. 3. to be deemed void against judgment creditor under judgment entered up before conveyance, &c.

7. All decrees and orders of the Court of Chancery, and all rules of any of the superior courts of common law, and all orders of the Lord Chancellor or Master of the Rolls or of the Court of Commissioners of Bankruptcy, and all orders of the Lord Chancellor in matters of lunacy, to which the effect of judgments in the superior courts of common law was given by the said Act of the fourth year of her Majesty, shall, where the same respectively shall be decrees, orders, and rules subject to the provisions of this Act, have the effect of judgments subject to the provisions of this Act recovered in the superior courts of common law, and the persons by whom any monies, costs, charges, and expences are by such decrees, orders, and rules respectively directed to be paid shall have the remedies to which judgment creditors under such judgments will have and be entitled to.

Decrees, orders, and rules subject to provisions of this Act to have the same effect as judgments subject to the provisions of this Act.

8. Any judgment, rule, or order subject to the provisions of this Act, (or which would be so subject if the same were a judgment, rule, or order of one of the superior courts of common

Judgments subject to this Act obtained in inferior courts,

and removed,
to have no
further force
than judg-
ments obtained
in superior
courts.

law,) obtained in or made by any inferior court of record which shall, under the provisions of the said Act of the fourth year of her Majesty, be removed into any of her Majesty's superior courts of record at Dublin, shall have no further force or effect than a judgment, rule, or order subject to the provisions of this Act recovered in or made by such superior court; but, save as aforesaid, any judgment, rule, or order so removed shall be subject to the provisions of the said Act of the fourth year of her Majesty in relation to judgments, rules, or orders removed into any of such superior courts.

[Ss. 9-11 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*) *S.* 12 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER XCVI.

AN ACT to provide for the Prosecution and Trial in Her Majesty's Colonies of Offences committed within the Jurisdiction of the Admiralty.[¹] [1st August 1849.]

[*Preamble.*]

Trial of Ad-
miralty
offences in
colonies.

[1.] If any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek, or place, shall be brought for trial to any colony, then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the courts of criminal justice of such colony.

[*S.* 2 *rep.* 54 & 55 *Vict. c.* 67. (*S.L.R.*)]

[¹ Short title, "The Admiralty Offences (Colonial) Act, 1848." See 55 & 56 *Vict. c.* 10.]

3. Where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished, in such colony, in the same manner and in all respects as if such offence had been wholly committed in that colony; and if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.

Provision, &c., where death in the colony, or at sea, &c., follows from injuries inflicted on the sea, &c.

4. Nothing in this Act contained shall in any way affect Saving.
or abridge the jurisdiction of the supreme courts of New South Wales and Van Diemen's Land, as established by the Australian Courts Act, 1828.

9 Geo. 4. c. 83.

5. For the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of her Majesty, except any island within the United Kingdom, and the islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto respectively, . . . [1]

Interpretation of "colony."

[S. 6 rep. 41 & 42 Vict. c. 79 (S.L.R.)]

CHAPTER CIII.

AN ACT . . . to make certain Amendments in the Laws
for the Relief of the Poor.^[2]

[1st August 1849.]

[Preamble recites 11 & 12 Vict. c. 110.]

[Ss. 1, 2 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

3. The chargeability of any person to the common fund of a union shall have the same effect and shall be attended with the same consequences as the chargeability of any poor person to a parish, in respect of proceedings to be taken . . . under the statutes for the removal from England of poor persons born in Scotland or Ireland, or in the Isle of Man, or Scilly, Jersey, or Guernsey, or under the statutes for the removal of lunatic

Effect of chargeability to common fund.

[1 And includes British India. See 23 & 24 Vict. c. 88.]

[2 Short title, "The Poor Law Amendment Act, 1849." See 55 & 56 Vict. c. 10.]

paupers to asylums, or under any statute against unlawfully causing or procuring the removal of any poor person.

Removal of lunatic to asylum, or of a pauper to the workhouse of the union, not to be deemed an interruption of the residence under 9 & 10 Vict. c. 66.

4. The removal of any lunatic pauper to an asylum, licensed house, or registered hospital, under the authority of the statutes in that behalf, or of any pauper, otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union, shall not be deemed to be an interruption of the residence of such pauper within the meaning of the Poor Removal Act, 1846; but the time spent in such lunatic asylum, licensed house, or registered hospital or workhouse respectively, and the time during which any person shall be relieved at the charge of the common fund of the union, shall be wholly excluded from the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed.

[S. 5 rep. 16 & 17 Vict. c. 97. s. 102.]

No person to be appointed overseer who is interested in certain contracts.

6. No person shall be qualified to be appointed to be an overseer of the poor in any parish who at the time of the proposed appointment shall be engaged or directly or indirectly concerned in any contract for the supply of goods, wares, materials, or provisions for the workhouse, or for the relief of the poor, in such parish, or in the union comprising such parish: Provided always, that no rate or assessment made, nor any other act or thing done, by such person as overseer, nor the service of any notice, demand, order, or process upon him as such, shall, if in other respects legal and sufficient, be deemed invalid by reason only of such disqualification.

7. Where the guardians of any union or parish shall make any order for the payment of money upon overseers or other officers of any parish upon whom they are empowered by law to make it, and a copy of such order shall be served upon any one of such overseers or other officers, it shall be lawful for the said guardians to enforce such order against the person so served, as fully and as effectually as if a copy thereof had been also served upon every one of such overseers or other officers.

[S. 8 rep. 42 & 43 Vict. c. 6. s. 11.]

9. [Recital of 11 & 12 Vict. c. 43. s. 11, and of doubts whether the provision of that section applies to proceedings by auditors to recover sums certified by them to be due in the accounts of officers or other persons.] Nothing in the provision of the said Act herein recited shall be deemed to apply to any such proceeding by any auditor; but no auditor shall commence any such proceeding after the lapse of nine calendar months from the disallowance or surcharge by such auditor, or, in the event of an application by way of appeal against the same to the Court of Queen's Bench or to the Poor Law Board, after the lapse of nine calendar months from the determination thereupon.

Recited provision not to apply to proceedings by auditors.

10. In the case of the prosecution of any information, or the proceeding for any penalty or forfeiture, or for enforcing any order, under the Poor Law Amendment Act, 1834, or of any subsequent statute incorporated therewith, where judgment shall be given against the defendant, and the justices shall order or direct such defendant to pay the costs, such costs shall, in addition to other costs lawfully chargeable, include all such costs and expences incurred in respect of such prosecution or the laying of such information, or the preferring of the complaint, or the making of the application, and the attendance of the party, or his counsel or attorney, and the summoning and attendance of the witnesses required to prove the case, as the justices shall think fit to allow, and find to have been reasonably and properly incurred.

Costs against defendants in proceedings for penalties, &c.
4 & 5 Will. 4. c. 76.

11. Where any auditor shall lay any information for a penalty, in consequence of the default of any officer or other person to attend the audit, or the adjournment thereof, or to produce the proper account or vouchers, or to make or sign the proper declaration before him, the costs incurred by such auditor, when not recovered from the defendant in such information, shall, if the Poor Law Board consent thereto, be payable to such auditor, and be chargeable in like manner as the costs incurred by an auditor in enforcing the payment of sums certified by him to be due.

Costs of auditors on informations for default of due attendance at audit, &c.

12. [Recital of 4 & 5 Will. 4 c. 76. s. 20. as to orders of the Poor Law Commissioners.] Nothing in the said Act contained shall be taken to invalidate any act or proceeding heretofore or hereafter to be done or taken in conformity with any order of the said commissioners or of the Poor Law Board, by the person or persons to whom the same shall have been or shall be addressed, although the period of fourteen days shall not have elapsed from the sending of the copies of the said order when any such act shall have been done or proceeding taken.

Validity of acts done under orders of Commissioners or Board after copies of such orders shall have been sent.

13. No writ of certiorari shall be granted, issued forth, or allowed, to remove into the Court of Queen's Bench any order, rule, or regulation of the Poor Law Commissioners, or of the Poor Law Board, . . . unless such certiorari be moved or applied for . . . within twelve months next after the day when the copy thereof shall be sent in the manner required by the several statutes in that behalf.

Limitation of time for certiorari.

14. Where the workhouse of any union or parish shall be governed and regulated by rules, orders, or regulations of the Poor Law Commissioners or of the Poor Law Board, the guardians of the union or parish to which such workhouse belongs, in case of the overcrowding of the workhouse of any other union or parish, or the prevalence or reasonable apprehension of any epidemic or contagious disease, or in and towards carrying out any legal resolution for the emigration of poor persons, may, with the consent of the Poor Law Board, receive, lodge, and

Guardians may in certain cases receive in their work-houses poor persons belonging to another union or parish.

maintain in the first-mentioned workhouse, upon such terms as shall be mutually agreed upon by the respective boards of guardians, any poor person belonging to such other parish or union; and such poor person so received into such first-mentioned workhouse shall while therein be treated in all respects in like manner, and be subject to the same regulations and liabilities, as the other poor persons therein, and shall be deemed to be chargeable in the first instance to the common fund of the union or to the parish in the workhouse whereof such poor person shall be received: Provided always, that the abiding of any such poor person in such workhouse shall in all other respects be attended with the same legal consequences as if such workhouse had been situated within the union or parish from which such poor person shall have been sent.

Indictments
against col-
lectors or
assistant over-
seers.

15. [*Recital.*] In respect of any indictment, or other criminal proceeding, every collector or assistant overseer appointed under the authority of any order of the Poor Law Commissioners or the Poor Law Board shall be deemed and taken to be the servant of the inhabitants of the parish whose money or other property he shall be charged to have embezzled or stolen, and shall be so described; and it shall be sufficient to state any such money or property to belong to the inhabitants of such parish, without the names of any such inhabitants being specified.

Guardians may
appropriate
money or
securities of
paupers to re-
imburse the
cost of their
relief and
burial.

16. Where any pauper shall have in his possession or belonging to him any money or valuable security for money, the guardians of the union or parish within which such pauper is chargeable may take and appropriate so much of such money or the produce of such security, or recover the same as a debt before any local court, as will reimburse the said guardians for the amount expended by them, whether on behalf of the common fund or of any parish, in the relief of such pauper, during the period of twelve months prior to such taking and appropriation, or prior to such proceeding for the recovery thereof (as the case may be); and in the event of the death of any pauper having in his possession or belonging to him any money or property, the guardians of the union or parish wherein such pauper shall die may reimburse themselves the expences incurred by them in and about the burial of such pauper, and in and about the maintenance of such pauper at any time during the twelve months previous to the decease.

Burial of per-
sons in receipt
of relief dying
out of union,
&c.

17. It shall be lawful for the guardians of any union or parish to pay the costs of the burial of any poor person dying out of the limits of such union or parish who was at the time of the death in the receipt of relief from such guardians; and the cost of burying any poor person by or under the direction of any guardians or overseers shall be recoverable in like manner, and from the same parties, as the cost of any relief (if given to such person when living) would have been recoverable.

18. And whereas by the Poor Law Amendment Act, 1834, ^{4 & 5 Will. 4. c. 76. s. 23.} the Poor Law Board are empowered, by and with the consent in writing of a majority of the guardians of any union, or with the consent of a majority of the rate-payers and owners of property entitled to vote in any parish, by writing under their hand and seal, to make certain orders for the building, purchasing, hiring, enlarging, or altering of a workhouse: And whereas in many parishes, not comprised in any union, the affairs relating to the relief of the poor are managed by a select vestry, or by guardians appointed or elected under the authority of some local Act, and in such parishes it is difficult to obtain the opinion of the ratepayers and owners of property upon any such question: Be it therefore enacted, that in any parish where there shall be a select vestry lawfully appointed, or a board of guardians appointed under any local Act, the consent in writing of the major part of the select vestry, or of the guardians, as the case may be, shall be sufficient to enable the Poor Law Board to issue any order, rule, or regulation in all such cases as are herein-before referred to, where the consent of the rate-payers and owners of property would but for this provision have been requisite: Provided that where in any parish there shall be a select vestry, and also a board of guardians, the consent in writing of the major part of the vestry or guardians shall be sufficient, according as such vestry or guardians respectively shall by law be empowered to carry the directions of the said board into execution.

Select vestry or board of guardians under local Act may consent to orders of Poor Law Board for building, &c. of workhouse.

19. In the case of an equality of votes upon any question at a meeting of the guardians of any union or parish, the presiding chairman at such meeting shall have a second or casting vote.

At meeting of guardians, chairman to have casting vote.

20. The guardians of any union, or of any separate parish for which a board of guardians is or shall be established, may expend, with the order and subject to the rules and regulations of the Poor Law Board, but not otherwise, any sum of money, not exceeding ten pounds for each person, in and about the emigration of poor persons having settlements in such parish, or in any parish in such union respectively, without the necessity of the rate-payers and owners of property therein meeting and giving their consent (as required by the Poor Law Amendment Act, 1834) to such expenditure, and such guardians shall charge the same to the parish of the settlement, in every case where such poor person resided therein or was removeable thereto at the time of the emigration: Provided always, that the guardian or (if more than one) a majority of the guardians of such last-mentioned parish shall express his or their concurrence in writing in the resolution of the board of guardians for such expenditure, and that such written concurrence shall be transmitted by the clerk of the union in communicating that resolution to the Poor Law Board: Provided also that the aggregate amount of the monies expended in the

Advances by guardians for emigration.

4 & 5 Will. 4. c. 76.

course of any one year in and about the emigration of such poor persons shall not exceed one half the average yearly poor rate raised in the said parish for the three preceding years.

Interpretation
and construc-
tion.
4 & 5 Will. 4.
c. 76.

21. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it; and the Commissioners for Administering the Laws for Relief of the Poor in England may be described in all instruments, documents, and proceedings in courts of law or otherwise, and may execute all powers and authorities from time to time vested in them, by the name of "The Poor Law Board," and by such name shall be understood in this Act; and all the provisions of the said last-mentioned Act and of the said statutes not repealed shall extend to this Act, except where any such provision would be inconsistent with anything herein contained.

Extent of Act.

22. This Act shall extend only to England and Wales.

[S. 23 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CIV.

AN ACT to amend the acts for the more effectual Relief of the destitute Poor in Ireland.^[1] [1st August 1849.]

[*Preamble.*]

[S. 1. *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

Adjustment of
liabilities on
alteration of
limits of union
or electoral
division.

2. [*Provision repealing in part 1 & 2 Vict. c. 56. s. 16 rep. 38 & 39 Vict. c. 66. (S.L.R.)*] It shall be lawful for the Commissioners for Administering the Laws for the Relief of the Poor in Ireland, and they are hereby required, in all cases wherein any change shall be made under the provisions of the said Act in the boundaries of any union or electoral division, to make such order under their seal as to them shall appear necessary for the adjustment of the liabilities of such union or electoral division existing at the time of change, and the proportionate share thereof to be borne by any townland or townlands affected by such change, and likewise for indemnifying any union, electoral division, or townland for any loss or exchange of property occasioned by such alteration of boundaries, and for charging on any such union, electoral division, or townland the value of any property or share thereof acquired or taken in exchange by reason of such alteration, and the expence of such indemnification as aforesaid; and the said commissioners shall be empowered to direct, if they shall see fit, the levying of any sum which it shall be necessary to raise for such adjustment, charge, or indemnification as aforesaid by special rate or otherwise on any union, electoral division, or townland, as in the said order shall be expressed; and every such special rate

[¹ Short title, "The Poor Relief (Ireland) Act, 1849." See 55 & 56 *Vict. c.* 10.]

shall be made by the parties and in the manner to be specified in the said order, and shall be levied by all the same powers, ways, and means as are provided for the levying of rates under the provisions of the said Act, and of the several Acts amending the same, and of this Act.

3. If upon the formation of any new union it shall appear to the said commissioners expedient that until sufficient workhouse accommodation shall be provided for such union, either by the erection of a new workhouse or by the adaptation of any existing buildings for such purpose, a portion of the workhouse accommodation existing in the union or unions of which any portion of such new union shall have previously formed a part should, for a limited time, be reserved for such portion of the new union, it shall be lawful for the said commissioners to make such order under their seal as to them shall appear necessary for appropriating any part of the workhouse accommodation of such union or unions for the use of such portion of the new union as aforesaid, and to make such regulations for the government of such workhouses, and for the admission and discharge of paupers therefrom, for any period not exceeding three years from the formation of such new union, as under the circumstances they may think proper; and it shall be lawful for the guardians of such new union to make order for the admission of any paupers chargeable to such new union, or to any electoral division thereof, into any workhouses to which such order of the said commissioners shall apply, and for their discharge therefrom, in such numbers and according to such regulations as shall or may from time to time be prescribed by the said commissioners, and to provide for the conveyance of such paupers to or from such workhouses; and such orders of admission or discharge, made by such guardians according to the regulations prescribed as aforesaid, shall be binding on the guardians of the unions in which the workhouses are situate, and on their officers; and it shall be lawful for the said commissioners, and they are hereby empowered, from time to time to fix and determine the sum which shall be paid by such new union or any part thereof for the maintenance and clothing of the paupers chargeable to such new union or any part thereof, and the proportion of the establishment charges which shall be paid for the accommodation reserved in such workhouse, and, subject to the provisions herein-before in this Act mentioned, shall make order for the payment of such sum on the guardians of such new union, specifying the periods at which such payments shall be made, either wholly or in part; and the said commissioners may, at their discretion, from time to time suspend, alter, or rescind such orders and regulations aforesaid, or any of them: Provided always, that if any pauper who shall have been sent to any workhouse as aforesaid situate out of the union to which or to any electoral division of which such pauper is chargeable shall be discharged therefrom, either by order of the guardians or at his own request, and shall become destitute

Temporary appropriation of workhouse accommodation on formation of new unions.

in the union in which such workhouse is situate within twelve calendar months from his discharge, the expence of his maintenance in such workhouse shall be chargeable against the union or electoral division from whence he was originally sent.

Payment by
new union,
how to be
enforced.

4. If the guardians of any such new union shall refuse or neglect to make the payments according to the terms and at the periods prescribed by the said commissioners as aforesaid, it shall be lawful for the said commissioners to make an order under their seal, requiring such payments to be made by the treasurer of such new union, and thereupon the treasurer of such new union shall pay to the treasurer of the union in whose behalf such order shall have been made the sums specified in the order of the commissioners, at such times and in such portions as shall be prescribed by such order, and the receipt of the treasurer appointed in such order to receive the payments prescribed shall be sufficient discharge to the treasurer of such new union for so much money paid by him, and shall be allowed in auditing and passing his accounts.

8 & 9 Vict.
c. 18, incor-
porated with
1 & 2 Vict.
c. 56, and this
Act, for pur-
chase of lands
for work-
houses.

5. In order to enable the said Commissioners for Administering the Laws for the Relief of the Poor in Ireland to purchase and hire such lands, tenements, and hereditaments as they are by law authorized to purchase and hire for the purpose of providing workhouses in unions, the Lands Clauses Consolidation Act, 1845, shall be incorporated with the Poor Relief (Ireland) Act, 1838, and the Acts amending the same, and this Act: Provided always, that all things by the said first-mentioned Act required or authorized to be done by the promoters of the undertaking may be done by any two of the said commissioners under their hand and seal.

1 & 2 Vict.
c. 76. s. 19.

Qualification
of guardians in
different elec-
toral divisions.

6. And whereas by the Poor Relief (Ireland) Act,^f 1838, the said commissioners were empowered to fix the value of the qualification of persons eligible to serve as guardians of the poor, but were not empowered to fix a different qualification in value for different electoral divisions in the same union: Be it enacted, that it shall be lawful for the said commissioners, in fixing the qualification of guardians as aforesaid, to fix a different value, if they shall see fit, for different electoral divisions of the same union, anything in the said recited Act to the contrary notwithstanding.

Justices hold-
ing property in
union, but not
resident, may
act as ex-officio
guardians in
certain cases.

7. In any union in which the number of qualified justices shall on the twenty-ninth day of September in any year not be equal to the number of elected guardians, every justice of the peace acting for any county in Ireland, and otherwise qualified under the laws now in force to be an ex-officio guardian of any union within such county, and who shall be seised, possessed, or entitled for his own use and benefit of or to any lands, tenements, or hereditaments situate within such union, or in the rents and profits thereof for any life or lives in being, or for any term of twenty-one years at the least, such estate being of the yearly value of fifty pounds at the least, shall, for the year next

following such twenty-ninth day of September as aforesaid, be an ex-officio guardian of such union, notwithstanding that such justice shall not be resident within the same: Provided that when the number of justices so qualified as is herein-before provided shall make the entire number of qualified justices exceed the number of elected guardians, such only of the highest rated justices, so qualified as aforesaid, shall be entitled to act as ex-officio guardians for such year as aforesaid as shall make the whole number of ex-officio guardians equal to the number of elected guardians; provided also, that any justice becoming qualified to act as an ex-officio guardian after the twenty-ninth day of September in any year shall not be entitled so to act until the twenty-ninth day of September following, if by his so acting the number of ex-officio be made to exceed the number of elected guardians in the union, but otherwise he shall be at once entitled so to act.

8. It shall be lawful for the Poor Law Commissioners, as and when they shall see fit, by order under their seal, to combine two or more electoral divisions of a union into one district, for the purpose of electing one guardian for such district, anything in the Poor Relief (Ireland) Act, 1838, to the contrary notwithstanding; and all the provisions of the said Act, and of the said Acts amending the same, which relate to the election of guardians, shall apply to the election of a guardian for such district of electoral divisions, in the same manner as if such district were a single electoral division formed under the provisions of the said recited Act for the election of a guardian or guardians: Provided always, that no such district shall be formed for the election of more than one guardian.

Electoral divisions may be united for the purpose of electing one guardian for the same.
1 & 2 Vict. c. 56.

9. It shall and may be lawful for the Poor Law Commissioners, if they shall think fit, upon the request of the board of guardians of any union, to appoint one fitting and proper person to act as assistant guardian for the union so applying, in the execution of the duty of guardian for the union to which he may be appointed, in the same manner in all respects as if such assistant guardian were an ex-officio or elected guardian for such union; and the Poor Law Commissioners shall be authorized to remove such assistant guardian, and to appoint another from time to time, and, if they shall think fit, to discontinue such appointment altogether, whensoever they may consider it to be expedient to do so.

Appointment of assistant guardians.

10. And whereas doubts have arisen whether, under the provisions of the said recited Act, persons in the receipt of rent in respect of hereditaments used for charitable or public purposes are rateable in respect of the profits derived from such hereditaments: Be it enacted, that in every rate which shall be made for the relief of the poor every person receiving rent in respect of any hereditament exempt from rating under the provisions of the said recited Act shall be liable to be rated in respect of such rent, to the extent of one half the poundage of every rate which

Hereditaments exempt from rating under 1 & 2 Vict. c. 56. to be rated to the extent of one half of future rates.

shall be made in or for the electoral division in which such hereditaments shall be situate, and the amount thereof shall be recoverable from such person by any of the means by which the rates in respect of tenements rated under the yearly value of four pounds may be recovered directly from the lessors thereof, under the provisions of the Poor Relief (Ireland) Act, 1843, as amended by this Act.

6 & 7 Vict.
c. 92.

1 & 2 Vict.
c. 56. s. 74.

Occupier not
to deduct from
rent more than
one half the
amount of the
rate paid,

11. And whereas by the said recited Act it is provided, that where the person occupying any property rated to the relief of the poor shall be liable to pay a rent in respect of the same, he may deduct from such rent, for each pound of the rent which he shall be so liable to pay, one half of the sum which he shall have paid as rate in respect of each pound of the net annual value (whether such rent shall be greater or less than such annual value), and so in proportion for any less sum than a pound; and it is expedient to amend the said provision: Be it enacted, that in making a deduction from such rent on account of any rate which shall be made it shall not be lawful for any occupier of property rated in or paying such rate to deduct from the rent payable in respect thereof a larger sum than one half the amount of the rate which he shall have paid in respect of such property, anything in the said Act to the contrary notwithstanding.

[S. 12 rep. 38 & 39 Vict. c. 66. (S.L.R.) Ss. 13-16 rep. 55 & 56
Vict. c. 19. (S.L.R.)]

Civil bill
decree for poor
rates removed
into superior
court to have
the effect of
a judgment of
a superior
court as to
lands of
defendant
within the
union.

17. [Recital.] All civil bill decrees for the recovery of poor rate pronounced or made by any assistant barrister in Ireland . . . or by the recorder of Dublin, shall be removable into any of her Majesty's superior courts of law in Dublin, without any writ of certiorari or other writ or process for that purpose; and upon the production of such civil bill decree to the master of any such superior court of law, and upon production of an affidavit made by an attorney of such superior court, verifying the signature of such assistant barrister . . . or recorder to such civil bill decree, and upon payment of a fee of two shillings to such master, he shall receive and file the said decree upon a file to be kept for that purpose, and shall enter the same in a book to be kept for that purpose, which shall be open to inspection; and immediately upon the filing of such decree as aforesaid such decree shall, with respect to all lands of the person against whom such judgment or civil bill decree shall have been obtained situate within the union where such poor rate shall have accrued, be deemed a record of such superior court, and shall be of the same force and effect as a judgment recovered in such superior court, and execution and all other proceedings shall and may be had and taken thereupon, or by reason or in consequence thereof, as if such decree had been originally a judgment of such superior court; and such decree may be registered in the office of the registrar of judgments, in like manner as a judgment of any such superior court.

18. Every judgment obtained in any action or suit in any superior court of law against any person or persons for poor rates, and every civil bill decree for poor rates filed in a superior court as hereinbefore provided, shall, when the same shall have been registered in the office of the registrar of judgments, be a charge, and take priority as a charge, on all the estate and interest in any lands of the person against whom such judgment or civil bill decree shall have been obtained situate within the union wherein such poor rates shall have accrued, before all charges and incumbrances whatsoever, and wheresoever made, save and except crown rents and quit rents, rent-charges in lieu of tithes, and all charges (if any) existing under and by virtue of the Drainage (Ireland) Act, 1842, and two other Acts since passed amending the same, and all charges (if any) existing under and by virtue of the Landed Property Improvement (Ireland) Act, 1847.

Registered judgments, &c. for poor rates to have priority as to lands within the union, except over crown rents, &c.

5 & 6 Vict. c. 89, &c. 10 & 11 Vict. c. 32.

19. When any rate for the relief of the poor shall be made, it shall not be lawful to commence any proceeding for the recovery of any arrear thereof against any person not primarily liable to pay the same, unless within the period of two years next after the making and publishing of the said rate.

Limitation of proceedings for recovery of arrears of rates against persons not primarily liable.

20. to the annual reports required to be laid before Parliament there shall be appended a statement of the date up to which the several accounts of the unions shall have been closed and audited, together with a statement of all such charges and payments disallowed, struck out, reduced, or inserted by such auditor, and of the steps taken at law for the recovery of the same, or the enforcement of any disallowance, surcharge, or other demand founded on the auditor's report, from any guardian, treasurer, or other person having the control of the poor rate, or any part thereof, or being accountable for any balances or any sums applicable for the relief of the poor, and the amount of such disallowances, surcharges or balances which have been recovered and paid into the hands of the treasurer of the union.

Statement as to audit of accounts of unions to be appended to annual report.

21. The guardians of the poor of the several unions shall, before the making of every rate, leave the rate books open for the inspection of any rate-payer between the hours of ten in the forenoon and four in the afternoon during fourteen days at the least before the making of every such rate, and such guardians shall give the same public notice of the deposit of such rate books for inspection as they are now required to give in relation to the making of such rates; and in all cases the names of occupiers for whom the immediate lessor is primarily liable for the payment of rate shall be inserted in the rate book.

Rate books to be deposited for inspection before rate is made.

22. For the purpose of giving due facility of appeal against the said rates it shall and may be lawful for the known agent of any appellant, appointed in like manner as a proxy is appointed for voting in the election of guardians, to sign the notices and enter into the recognizances required by law in cases

Agent of appellant may sign notices, enter into recognizances, &c.

of appeal, which notices and recognizances, so signed as aforesaid, shall be in all respects as good and effectual in law as if signed by the appellant in person.

1 & 2 Vict.
c. 56, s. 117.

23. And whereas by the Poor Relief (Ireland) Act, 1838, it is, amongst other things, enacted, that within five days after notice given of an appeal to the quarter sessions the person or persons appealing shall enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the then next sessions of the peace to be held in the presence of the assistant barrister, and to abide the order of and pay such costs as shall be awarded by the justices and assistant barrister at such sessions: And whereas it is expedient to repeal the said provision, and to substitute another provision in lieu thereof: Be it therefore enacted, that within five days after notice given of any such appeal as in the said recited Act or any Act amending the same provided the person or persons appealing shall enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the sessions of the peace to which such person or persons shall have so appealed, and to abide the order of and to pay such costs as shall be awarded by the court at such sessions.

Recognizances
to try appeals
under recited
Act.

Names of persons
relieved to
be entered in
books.

24. The board of guardians of each union shall cause the names of all persons relieved out of the poor rates to be duly entered in books to be kept, one for the union at large and one for each electoral division, and under the heads of the townlands in which they are stated to have last resided, and such books shall be open to the inspection of all persons assessed to the poor rate within the union from ten o'clock in the forenoon until four o'clock in the afternoon on one day at least in each week.

Number of persons
relieved to
be published
weekly.

25. On each Saturday the board of guardians of every union shall cause a statement to be prepared and posted on the door of the poorhouse, showing the number of persons who shall have received relief in such union during the seven days then next preceding, and further showing the number of persons chargeable against the union at large, and against each separate electoral division.

Advances by
guardians for
emigration.

26. For the purposes of defraying or assisting to defray the expenses of the emigration of poor persons resident within any union or electoral division it shall be lawful for the guardians of such union, with the consent of the commissioners, to be testified under their seal, or for the persons for the time being appointed or authorized to act as guardians of such union, with such consent and so testified as aforesaid, to apply any monies in their hands arising from any rate or rates ~~on any electoral division or divisions~~ in defraying or assisting to defray the expences of the emigration of poor persons resident therein respectively, or to borrow and obtain from time to time any sums or sum of money from any person or persons willing to advance the same, or from the Exchequer Bill Loan Commissioners, upon the security of

the rates of such union, or of any electoral division or divisions thereof, on the terms and subject to the provisions herein-after mentioned: Provided always, that no such sums or sum of money shall be advanced by the said Exchequer Bill Loan Commissioners, unless with the consent of the Treasury: Provided also, that it shall not be lawful for any paid officers appointed to act as guardians by the said commissioners to exercise the said power of applying or borrowing money for the purpose of emigration without the consent of a majority in value of the rate-payers of the electoral division or divisions to be charged therewith, assembled in the manner provided by the Poor Relief (Ireland) Act, 1838, for the purpose of agreeing to and signing an application to the said commissioners for the raising of a rate to assist emigration.

27. The repayment of all and every such sums and sum of money so borrowed shall be from time to time secured by a charge on the said rates respectively by a debenture, made out in such form as the Poor Law Commissioners shall direct, under the seal of such guardians or persons, as the case shall require, which shall carry interest after such rate or rates as in every such charge shall be specified; and every person having any right or interest to, in, or under any such charge (save only and except the said Exchequer Bill Loan Commissioners) may from time to time, by endorsement thereon or otherwise, assign his or her said right or interest therein to any other person or persons, upon first giving notice in writing of such assignment to the guardians or persons appointed or authorized to act as guardians of the said union, and thereupon such assignee or assignees, and his or their representatives or assigns, shall be entitled to stand in the place of the person assigning the same, and in respect of such right or interest: Provided always, that the sums or sum of money so to be borrowed and charged upon any electoral division or divisions as aforesaid, and remaining outstanding and unpaid, in respect of the emigration of poor persons resident or relievable within any such electoral division or electoral divisions respectively, shall never exceed in the whole the amount or proportion of eleven shillings and eight-pence in the pound of the clear yearly value of the rateable property situate or arising within the electoral division or respective divisions the rates whereof shall have been so charged with the repayment thereof, and that any sum or sums of money so borrowed and charged upon the union at large as aforesaid, and remaining outstanding and unpaid, in respect of the emigration of poor persons resident in and relievable by the union at large, shall never exceed in the whole the amount or proportion of two shillings and four-pence in the pound of the clear yearly value of the rateable property situate or arising within such union; and the sums or sum of money so to be borrowed shall be repaid by annual instalments, each instalment being not less than one seventh part of such sums or sum respectively, and the first of

Borrowing and
repayment of
monies bor-
rowed for
emigration.
1 & 2 Viet.
c. 56.

such instalments to be so repaid at or before the end of one twelvemonth next after the day whereon such sums or sum shall have been first advanced, and that for the purposes aforesaid it shall be lawful for the guardians or persons appointed or authorized to act as guardians of such union to provide for the repayment of such annual instalments out of the rate or rates levied in the said union under the authority of the Acts for the relief of the poor in Ireland.

Application of money raised for emigration.

28. All and every the sums and sum of money so to be borrowed and charged as aforesaid shall be from time to time applied, under the direction of the said commissioners, by the guardians or persons appointed or authorized to act as guardians of the union borrowing the same, in defraying or assisting to defray the expences connected with the emigration of poor persons resident or relievable within the respective electoral divisions or division on the rates whereof the same respectively shall have been so charged, or resident in and relievable by the union at large on the rates whereof any such charge on the union at large shall have been so charged, to any of the colonies or possessions of this realm, or to any foreign state; and it shall not be lawful for any person acting in the execution of this Act to apply or expend any such sums or sum, or any part thereof, in any other manner or for any other purpose whatsoever.

Amendment of errors in proceedings at quarter sessions.

29. For the purpose of facilitating and rendering more effectual all legal proceedings of quarter sessions or before any assistant barrister in Ireland, . . . or before the recorder of Dublin, in anyways relating to the collection or recovery of poor's rate, or relating to appeals or other proceedings respecting rating, it shall and may be lawful for such assistant barrister, or recorder, if he shall so think fit, to correct or amend any variance, clerical error, or irregularity, not affecting the substantial merits of the question to be tried, and which may be found in the notices, recognizances, processes, decrees, or other forms or instruments of a like kind, brought before him in relation to this Act or the Acts herein-before recited.

Proceedings for rates against immediate lessors, where to be instituted.

30. In any case in which it may be necessary to institute proceedings by civil bill before any assistant barrister in Ireland, . . . or before the recorder of Dublin, against any immediate lessor primarily liable to the payment of rates for premises the occupier of which is exempted from such payment, it shall be lawful for the guardians of the poor to institute such proceedings before the assistant barrister for the county wherein the rated premises are situated, and in the division thereof wherein the same are situate; and in case the said rated premises are situated within the county of Du'lin, or within the City of Dublin, then before . . . the recorder of Dublin, . . . first giving to such immediate lessor, or to his known agent or receiver of his rents, fourteen days notice of the proceeding about to be taken against him as aforesaid, by

service of process; and the service of process in such civil bill on such immediate lessor, his known agent or receiver, at any place out of such division and county, or at any place out of the said county of Dublin or City of Dublin, shall be as effectual as a service of the same upon such lessor within such division, or within the said county of Dublin or City of Dublin.

31. The Poor Relief (Ireland) Act, 1838, and the Acts amending the same, and this Act, shall be construed as one Act.

Construction.
1 & 2 Vict.
c. 56.

[*S. 32 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER CV.

AN ACT for converting the renewable Leasehold Tenure of Lands in Ireland into a Tenure in Fee.[¹] [1st August 1849.]

[*Preamble.*]

[1.] Where lands in Ireland are held under any lease in perpetuity, the owner of such lease in perpetuity, and whether the time for renewal has or has not arrived, may require the owner of the reversion to execute a grant, according to the provisions of this Act, of the lands comprised in such lease; and the owner of the reversion, upon being so required as aforesaid, shall execute a grant to the owner of such lease of an estate of inheritance in fee simple in such lands, subject to a perpetual yearly fee-farm rent, of such amount as herein-after mentioned, to be charged upon such lands, and to be payable on the same days and times as the yearly rent made payable by such lease, and subject to the like covenants and conditions for securing the payment of such fee-farm rent as are contained in such lease with respect to the rent thereby reserved, and with and subject to such other covenants, conditions, exceptions, and reservations, (save covenants to grant or to accept and take a renewal of such lease, and such covenants, conditions, exceptions, and reservations as may be commuted as herein-after mentioned) as are contained in such lease, and then subsisting; and where lands in Ireland are held under any under-lease in perpetuity of any degree of tenure, the owner of such under-lease, and whether the time for renewal has or has not arrived, may require the owner of the lease or under-lease in perpetuity out of which such first-mentioned under-lease is derived, or the owner of the estate of inheritance which may have been granted in respect of the lease or under-lease out of which such first-mentioned under-lease is derived, to execute a grant, according to the provisions of this Act, of the lands comprised in such first-mentioned under-lease; and the owner so required shall thereupon execute a grant to the owner of such under-lease of an estate of inheritance in fee simple in such lands, subject to a

Conversion of
leases in per-
petuity into in-
heritances in
fee simple.

[¹ Short title, "The Renewable Leasehold Conversion Act." See s. 39.]

perpetual yearly fee-farm rent, of such amount as herein-after mentioned, to be charged upon such lands, and to be payable on the same days and times as the yearly rent made payable by such under-lease, and subject to the like covenants and conditions for securing such fee-farm rent as are contained in such under-lease with respect to the rent thereby reserved, and subject to such other covenants, conditions, exceptions, and reservations, (save covenants to grant or to accept and take a renewal of such lease, and such covenants, conditions, exceptions and reservations as may be commuted as herein-after mentioned) as are contained in such under-lease, and then subsisting; and upon the delivery of every such grant as aforesaid to the owner requiring the same, he shall execute and deliver to the owner executing such grant a counterpart thereof; and the expence of the preparation and execution of such grant and counterpart shall be paid by the owner to whom the grant is made: Provided always, that the owner required to make any such grant as aforesaid shall not be obliged to execute such grant until, where the time for renewal of the lease or under-lease by the owner of which the grant is required has not arrived, all such arrears or sums, if any, of or in respect of rent as, if the time had arrived for renewal of such lease or under-lease, and a bill had been filed for the renewal thereof, would have been required by a court of equity to be paid on such renewal, and where the time for renewal of such lease or under-lease has arrived, or where there has not been a renewal of such lease or under-lease at or after the time at which the same might have been last renewed according to the covenant for renewal, all such arrears or sums, if any, of or in respect of rent, and also all such fines and fees, if any, and interest, as would have been required by a court of equity to be paid on renewal of such lease or under-lease, are paid: Provided also, that no owner required to execute any such grant as afore-said shall be obliged to execute such grant where the right of renewal is lost both at law and in equity; and where any owner required to execute any such grant as aforesaid disputes the right of the party requiring such grant to require the execution of such grant, such owner shall, within one calendar month after he is so required as aforesaid, serve on the person by whom such grant has been required a notice in writing stating that the right to require such grant is disputed, and the grounds on which such right is so disputed.

Counterparts to be executed.]

Expence of grants and counterparts.

Arrears of rent, &c., to be paid before execution of grant.

Grant not to be required where right of renewal is lost.

Owner disputing the right to give notice.

Amount of fee-farm rent.

2. The fee-farm rent to be made payable by every such grant as aforesaid shall, where the lease or under-lease (as the case may be) to the owner of which the grant is made is renewable without fine, or upon payment of a peppercorn or other merely nominal fine of like nature, be of the like amount as the yearly rent made payable by such lease or under-lease, and shall, where such lease or under-lease is renewable upon payment of a fine or fines not merely nominal, be of an amount equal to the aggregate amount of the yearly rent made payable by such lease or under-

lease, and the value of the renewal fine or fines and fees (if any), such value to be estimated or computed with regard to the probable duration of the subsisting term, the average duration of life, and the respective periods for renewal, but without regard to and exclusively of any penal rents or sums made payable upon neglect, delay, or refusal to apply for or take renewal, and to be ascertained as herein-after mentioned, if the parties differ about the same.

3. Where any subsisting exception or reservation contained in the lease or under-lease in perpetuity by the owner of which a grant is required as aforesaid, or any right under covenant or otherwise annexed or belonging to the reversion or estate from the owner of which a grant is required, interferes with the proper cultivation of the lands comprised in such lease or under-lease, the owner of such lease or under-lease requiring such grant as aforesaid may (if he think fit) require that such exception, reservation, or right should cease, wholly or partially, and in such case the grant shall be modified accordingly, and the fee-farm rent to be made payable by such grant shall be increased by such an amount as is equivalent to the value of such exception, reservation, or right, in so far as it is made to cease as aforesaid, such amount to be ascertained in manner herein-after mentioned, in case the parties differ about the same.

Lessee or under-lessee may require exceptions, &c. interfering with cultivation to be commuted for an increased rent.

4. Provided always, that where any right to timber, timber trees or other trees, woods, underwood, or underground woods, bogs, mosses, turbaries, mines, minerals, quarries, or royalties, whether under express exception or reservation contained in the lease or under-lease in perpetuity or otherwise, is annexed to or belongs to the reversion or estate from the owner of which a grant is required, it shall not be lawful for the owner of the lease or under-lease in perpetuity requiring the grant to require that such right should cease, either wholly or partially, but in every such case the owner of the reversion or estate from the owner of which the grant is required, and the owner of the lease or under-lease requiring the grant, may agree that such right should cease or pass under the grant, either wholly or partially, and in such case the grant shall be modified accordingly, and the yearly fee-farm rent to be made payable by such grant shall be increased by such an amount as is equivalent to the value of such right, so far as it is made to cease or pass as aforesaid.

Rights to timber, mines, &c. not to be commuted but with consent of reversioner.

5. Provided also, that where the estate into which the reversion from the owner of which a grant is required as aforesaid would be converted upon such grant under the provisions herein-before contained would not afford full compensation for the loss of such reversion, or of any power, benefit, or advantage incident thereto, or exercised or enjoyed by or on behalf of the owner thereof under any local or personal Act of Parliament, charter, settlement, or otherwise, the owner of such reversion may require such loss to be compensated by such an addition in respect thereof to the fee-farm rent to be made payable under such

Compensation where there is a loss to the owner of the reversion on the conversion thereof into a rent.

grant, or, at the option of the owner of such reversion, by the payment of such a gross sum of money, (the amount in either case to be ascertained as herein-after mentioned, in case the parties differ about the same,) as will afford a full compensation for such loss, to be estimated according to the difference in marketable value; and where upon a grant made or to be made under this Act to the owner of a lease in perpetuity such addition or payment as aforesaid has been made or may be required to be made, the owner of such lease, or of the estate into which the same has been converted under this Act, upon being required to make a grant under this Act to the owner of an under-lease in perpetuity derived out of such lease, may require an addition to be made to the fee-farm rent to be made payable under such last-mentioned grant, or the payment of a gross sum of money, of the like or a proportionate amount (as the case may require); and in like manner, where upon a grant made or to be made under this Act to the owner of any under-lease in perpetuity an addition to the fee-farm rent payable under such grant, or the payment of a gross sum of money, has been made or may be required to be made under this provision, the owner of such under-lease, or of the estate into which the same has been converted, may require an addition to be made to the fee-farm rent to be made payable on any grant which he may be required to execute to the owner of any inferior under-lease, or the payment of a gross sum of money, of the like or a proportionate amount (as the case may require).

By consent, a portion of the lands comprised in lease &c., and not subject to any inferior under-lease in perpetuity may be allocated in lieu of fee-farm rent, or the fee-farm rent may be charged on part only such land.

6. Where the owner required to execute such grant as aforesaid and the owner requiring the same shall so agree, a part of the lands comprised in the lease or under-lease by the owner of which such grant is required, and not comprised in any inferior under-lease in perpetuity, may be allocated in fee simple in lieu of the fee-farm rent which would have been made payable by such grant, or of any portion thereof, or such fee-farm rent, or any portion thereof, in lieu of which land is not allocated as aforesaid, may be made payable out of any sufficient part only, to be specified in the grant, of the lands comprised in such lease or under-lease, and the residue of the lands shall be discharged therefrom; and where land is allocated as aforesaid the same shall by the same grant be conveyed or surrendered by the owner of the lease or under-lease to the owner to whom the fee-farm rent in lieu of which or of a portion of which the same is allocated would have been payable.

Grants to be valid against all parties;

and reversions to be converted into estates of inheritance of fee simple in the fee farm rents.

7. From and after the execution of such grant to the owner of a lease in perpetuity, or to the owner of an under-lease in perpetuity, as aforesaid, such grant shall, where such grant is made to the owner of a lease in perpetuity, bind all persons interested in the reversion and in such lease, and all persons bound by such lease, and such reversion shall be converted into an estate of inheritance in fee simple in the fee-farm rent made payable by such grant, and the conditions, exceptions, and

reservations therein contained, and all rights annexed or belonging to such reversion saved by and not commuted under this Act; and such grant shall, where such grant is made to the owner of an under-lease in perpetuity, bind all persons interested in the lease or superior under-lease, or the estate of inheritance granted in respect thereof by the owner of which the grant is made, and in the under-lease to the owner of which the grant is made, and all persons bound by such under-lease; and the estate held under such lease or superior under-lease, or such estate of inheritance as aforesaid, shall be converted into an estate of inheritance in fee simple in the fee-farm rent made payable by such grant, and the conditions, exceptions, and reservations therein contained, and all rights annexed or belonging to the estate by the owner of which such grant is made saved by and not commuted under this Act; and each such estate of inheritance in fee simple as aforesaid shall be transmissible and descendible in like manner as if the same were an estate of inheritance in fee simple in reversion in the lands on which the fee-farm rent is charged by the grant creating the same, having incident thereto the conditions, exceptions, and reservations contained in the same grant, and such rights respectively as aforesaid; and the estate of inheritance created under every such grant as aforesaid in the lands comprised therein, save any part thereof allocated in lieu of a fee-farm rent or any portion thereof, under the provision herein contained, and the estate of inheritance so created as aforesaid in the fee-farm rent made payable by such grant, and in any land so allocated as aforesaid, shall from and after the execution of such grant be respectively vested in the same persons, for the same estates and interests, and be respectively subject to the same uses, trusts, provisos, agreements, and declarations, and be respectively charged with and subject to the same charges, liens, judgments, incumbrances, and equities, as the estate held under the lease or under-lease in perpetuity to the owner of which the grant is made, and the reversion or estate by the owner of which the grant is made, were respectively vested in, subject to, and charged with immediately before their conversion into such respective estates of inheritance as aforesaid was affected, or as near thereto as the different natures of the estates and the circumstances of each case will admit; but all land allocated as aforesaid shall remain subject to all demises and tenancies inferior in tenure to the lease or under-lease by the owner of which such land may have been so allocated.

Such estates to be descendible, &c., as estates of inheritance in fee simple in reversion in the lands charged.

Estates created under grants in the lands, and fee-farm rents, or lands allocated in lieu thereof, to be subject to the same uses, &c. as the lands held under the same leases, &c., and the reversions.

Lands allocated to remain subject to inferior demises, &c.

8. The conversion of any estate under this Act shall not prevent or prejudice the operation of any devise, bequest, or testamentary appointment, made before such conversion, of such estate, or any interest therein, but such devise, bequest, or testamentary appointment shall operate upon the estate or interest created or acquired under this Act, as fully and effectually, to all intents and purposes whatever, as the same would have operated upon the respective estate or interest previously subsisting if no conversion had taken place.

Conversion not to affect testamentary dispositions, which shall take effect on the estates acquired under this Act.

Conversion not to create rights of dower and curtesy which would not have existed in estates if unconverted, or to affect rights to franchises, or to minerals or royalties, unless commuted.

9. No conversion under this Act of any estate shall operate to give dower or curtesy to the widow or husband of any person becoming entitled under this Act to an estate of inheritance, in any case where the estate converted would not have been liable to dower or curtesy, and such widow or husband was married to such person before such conversion, or to defeat or affect any rights of lords of manors or reputed manors, or of owners of reversions in fee simple, to courts leet or courts baron, and services at the same, escheats, fairs, markets, franchises, rights, liberties, privileges of chase or free warren, hunting, hawking, fowling, piscaries, fisheries and rights of fishing, or any rights in any mines or minerals, quarries, or royalties, within or under the lands included in any estate converted under this Act, save in so far as the same may be commuted under this Act.

Covenants running with the lands.

10. All covenants by law implied on the part of landlord or tenant upon any lease or under-lease in perpetuity to the owner of which a grant is made under this Act shall be implied upon such grant, and every covenant for payment of rent, and every other covenant contained in pursuance of this Act in any such grant as aforesaid, in substitution for a like covenant in the lease or under-lease to the owner of which such grant is made, where such last-mentioned covenant is of such a nature as that the burden thereof doth by law run with the land, and bind the assignee of such lease or under-lease, and every covenant implied under this Act upon any such grant, where the burden of the implied covenant for which the same is in substitution was upon the owner of such lease or under-lease, shall run with the estate in fee simple into which the estate held under such lease or under-lease is converted under this Act, and the owner or assignee for the time being of such estate in fee simple shall be chargeable upon such covenants in the same manner and to the same extent as if he were owner or assignee of the term or interest created by such lease or under-lease, and such term or interest, and the estate out of which such lease or under-lease was derived, were still subsisting, and the benefit of such covenants shall run with the estate into which such estate is converted under this Act, and the owner or assignee for the time being of the estate created by such conversion shall have the full benefit of such covenants, and be entitled to maintain actions thereon; and every covenant contained in pursuance of this Act in any such grant as aforesaid, in substitution for a like covenant in such lease or under-lease as aforesaid, where such last-mentioned covenant is of such a nature as that the burden thereof doth by law run with the estate out of which such lease or under-lease was derived, or bind the assignee of such estate, and every covenant implied under this Act upon any such grant, where the burden of the implied covenant for which the same is in substitution was upon the owner of the estate out of which such lease or under-lease was derived, shall run with the estate into which such estate is converted under this Act; and the owner or assignee for the time being of the estate created by such conversion shall be chargeable

upon such covenants in the same manner and to the same extent as if he were owner or assignee of such estate so converted, and such estate and lease or under-lease were still subsisting, and the benefit of such covenants shall run with the estate in fee simple into which the estate held under such lease or under-lease is converted under this Act, and the owner or assignee for the time being of such estate in fee simple shall have the full benefit of such covenants, and be entitled to maintain actions thereon.

11. And whereas in leases in perpetuity granted by the governor and assistants of the new plantation in Ulster, within the realm of Ireland, commonly called the Irish Society, are contained covenants for the decision, by the award and order of the said society, of questions, disputes, or controversies arising between their tenants or under-tenants, and for the protection of certain fisheries: Be it enacted, that where there is contained in any grant under this Act made to the owner of any lease or under-lease in perpetuity a covenant in substitution for a like covenant in such lease or under-lease, for or concerning the decision by the said society of any question, dispute, or controversy, or for or concerning the protection of any fishing, or conferring any other power benefit, or advantage on the said society, which covenant did not by law run with the land, such covenant in such grant shall run with the land, and the provisions of this Act shall be applicable thereto in like manner as if the covenant for which the same is in substitution did by law with run the land.

Provision as to covenants contained in grants in substitution for leases by the Irish society.

12. Where the estate held under any lease or under-lease in perpetuity is converted under this Act into an estate of inheritance in fee simple, and such estate was immediately before such conversion subject to any subsisting under-lease or demise at will, or for any greater interest, the fee simple into which such estate is so converted shall be the reversion immediately expectant upon such under-lease or demise, and the rents and services reserved and made payable upon such under-lease or demise shall be incident and annexed to such reversion, and the covenants and agreements, whether express or implied, on the part both of the landlord and the tenant, shall run with the land and with the reversion respectively, in the same manner in all respects, and to the same extent, as if such under-lease or demise had been made by a person seised in fee simple in possession, and the estate in fee simple created by such conversion as afore-said had been the reversion expectant upon such under-lease or demise; and such conversion shall not prejudice or affect any right of distress, entry, or action which has accrued in respect of such under-lease or demise before such conversion.

Conversion of lessee's or under-lessee's interest not to affect demises made by him.

13. Provided always, that no grant made by the owner of any lease or under-lease in perpetuity under this Act shall prejudice or affect the rights of the owner of the reversion, or of any lease or under-lease superior in tenure, or of the estates into which they may be respectively converted under this Act, but all

Saving of rights of superior owners and of under-lessees.

owners, lessees, under-lessees, and occupiers for the time being of any land shall have the like rights and equities to be discharged of and indemnified against fee-farm rents created under this Act as such owners, lessees, under-lessees, and occupiers respectively would have had in respect of the rents incident to the several reversions or estates converted into such respective fee-farm rents; and the owners for the time being of all fee-farm rents created under this Act shall be subject to and charged with the like liabilities and shall have the like rights and equities to indemnify and to be indemnified in respect of such fee-farm rents respectively as they would have been subject to and would have had in respect of the reversions or estates which have been converted into such respective fee-farm rents in case this Act had not been passed.

Under-lessee
entitled to
require his
lessor to obtain
renewal may
require him to
obtain a grant.

14. Where the owner of any under-lease in perpetuity is entitled to require the owner of the lease or superior under-lease out of which such first-mentioned under-lease is derived to procure a renewal of such lease or superior under-lease, the owner of such first-mentioned under-lease may, at the time of requiring the owner of such lease or superior under-lease to execute to him a grant under this Act, and whether the time for the renewal of such lease or superior under-lease has or has not arrived, also require the owner thereof to procure a like grant to be made to such owner by the owner from whom he is entitled under this Act to require such grant; and where a grant has been made under this Act to the owner of an under-lease in perpetuity entitled to require the owner of the lease or superior under-lease in perpetuity out of which such first-mentioned under-lease was derived to procure a renewal of such lease or superior under-lease, and the owner to whom such grant has been made has not at the time of requiring such grants required the owner of such lease or superior under-lease to procure a like grant to be made to such owner, and such grant has not in fact been made to such owner, the owner of the estate into which the estate under such first-mentioned under-lease has been converted shall, at the time when he might if such last-mentioned estate had not been converted have required the owner of such lease or superior under-lease to procure a renewal thereof, be in like manner entitled to require such owner to procure a grant to be made to him under this Act.

Subsequent
grant to owner
of lease, &c. to
feed grant pre-
viously made
by him.

15. Where any lands comprised in a lease or under-lease to the owner of which a grant is made under this Act of an estate of inheritance are comprised in an under-lease in perpetuity to the owner of which the owner of such lease or first-mentioned under-lease has previously made a like grant in such lands, such first-mentioned grant shall operate to supply or feed the grant so previously made, and each like grant (if any) previously made by the owner of each inferior under-lease in perpetuity in the same lands, or any part thereof, between which and the secondly

before-mentioned under-lease there is no intermediate under-lease in perpetuity subsisting.

16. Where any fee-farm rent shall be charged upon any lands by any grant made under this Act, the acquisition of a part of such lands by the person entitled to such fee-farm rent, whether such acquisition shall be by descent, by purchase, or by escheat, shall operate so as to extinguish only a proportionate part of the rent to which such person shall be entitled, and the remaining part of such rent shall be recoverable out of the residue of such lands, in the same manner as the whole rent would have been recoverable if such acquisition had not been made; and in such case such fee-farm rent shall be apportioned by the agreement of the persons interested, and, in default thereof, according to the relative amounts of the value of the land so acquired and the value of the residue of such lands, in the same manner as rent-service is now by law apportionable upon an alienation of the reversion in part of the lands.

Acquisition by owner of fee-farm rent of part of land charged with such rent to operate as an extinguishment of an apportioned part of such rent.

17. Where the owner of any reversion, lease, under-lease, or estate is a minor, idiot, lunatic, feme covert, or is not within the United Kingdom, the guardian, trustee, committee of the estate, husband, or attorney respectively of such owner shall for the purposes of this Act be substituted in the place of such owner, and shall and may execute such grants and counterparts, make such agreements, and do all such other acts which such owner, if not under disability or out of the United Kingdom, should and might have executed, made, and done under this Act.

Guardians, &c. may act for owners under disability or abroad.

18. Where any fee-farm rent made payable by any grant under this Act is greater in amount than the rent reserved by the lease or under-lease in perpetuity to the owner of which such grant is made, the party paying such rent shall not be entitled to deduct from the party receiving the same any poundage in respect of poor's rate from the portion of such rent which by virtue of this Act is added to the amount of rent previously payable.

The portion added under this Act to any former rent not to be liable to deduction for poor rate.

19. Nothing in this Act contained shall be deemed to affect or alter the existing liability of any party or parties, or of any estate or interest, in respect of the payment or deduction of rent-charge in lieu of tithe.

Act not to alter liability to tithe rent-charge.

20. The fee-farm rent made payable by any grant under this Act, or by any grant made after the passing of this Act, shall be recoverable by distress, ejectment for nonpayment of rent, action of debt, covenant, and all other ways, means, remedies, actions, suits, or otherwise, by which rent-service reserved on any common lease or demise for a life or lives is or may be by law recoverable; and all the enactments relating to ejectment for nonpayment of rent, distress, or other remedies for recovery thereof, shall apply to every such fee-farm rent as aforesaid, as fully and effectually as if the same were rent-service reserved on a lease for a life or lives; and in proceedings by ejectment

Fee-farm rent recoverable by, like remedies as rent-service reserved on demise for life.

Evidence of
plaintiff's title.

As to estate
acquired by
judgment in
ejectment and
execution, or
by entry.

Power to re-
deem given to
certain persons
in case of judg-
ment and exe-
cution in action
of ejectment
for non-
payment of
fee-farm rent.

for nonpayment of such fee-farm rent, under the statutes for the time being in force in Ireland in relation to ejectment for nonpayment of rent made applicable under this Act to such fee-farm rent as aforesaid, the receipt of such fee-farm rent for three years by the lessor of the plaintiff, or any person or persons through whom he claims, shall have the same force and effect as a similar receipt of rent-service reserved on any lease for life or lives would have in proceedings by ejectment for nonpayment of such rent under such statutes; . . . and in actions of replevin, debt, or covenant, or other proceeding founded on such grant as aforesaid, proof that the said plaintiff or other person, or any person or persons through whom he claims, has or have been in possession or in the receipt of such fee-farm rent for three years shall be sufficient evidence of the title of the plaintiff or other person thereto, as in cases of ejectment for nonpayment of rent under the statutes in force in relation thereto; and if in any such action of ejectment as aforesaid judgment be given for the plaintiff, and execution executed, or if any entry be made in respect of such fee-farm rent as aforesaid, or by virtue of any condition for re-entry contained in any such grant as aforesaid, then the estate in the lands acquired under such judgment and execution or by such entry shall be of the like nature, and shall be subject to the same or the like uses, trusts, charges, liens, equities, rights, and incumbrances, as if such judgment and execution or such entry had been in respect of an estate in reversion, and of a rent or of a condition, as the case may be, incident thereto, and such estate in reversion had stood limited to the same uses and trusts, and subject to the same charges, liens, equities, rights, and incumbrances, to which such fee-farm rent stood limited or subject.

21. If in any action of ejectment brought on account of the nonpayment of any fee-farm rent made payable by any such grant as aforesaid, pursuant to the statutes for the time being in force in Ireland as to actions of ejectment for nonpayment of rent, judgment be given for the plaintiff, and execution executed, and the person who has made default in payment of the rent, or the person who but for such ejectment would for the time being have been the party to make the payment from time to time thereafter becoming due, do not, within six calendar months from the time of such execution executed, do such acts or take such proceedings as are or may be by law necessary for the redemption of the lands from the said judgment and execution, (all which acts and proceedings he is hereby authorized to do and take, in the same manner and with the same effect, to all intents and purposes, as if he were the tenant or lessee of the person causing such ejectment to be brought,) then and in every such case it shall be lawful for the owner of or any person having an estate or interest in any fee-farm rent made payable by any such grant as aforesaid out of the whole or any part of such lands, or for the owner of or any person having an estate or interest in the lands out of which such

fee-farm rent is payable, or any part thereof, within nine calendar months after such execution executed, to do such acts and take such proceedings for the redemption of the said lands from the said judgment and execution, and for obtaining relief in respect of the same, as under the statutes last aforesaid any mortgagee of a lease might do or take for the redemption of such lease, or his estate or interest therein, from any judgment and execution in any action of ejectment for nonpayment of rent pursuant to such statutes, and for obtaining relief in respect of the same; and any redemption made pursuant to such statutes shall operate so as to restore all estates and interests in rents or in lands which shall have been defeated by the entry or ejectment; and when such redemption as last aforesaid has been made, or when any such redemption has been made under the statutes aforesaid by any mortgagee or any other person, which redemption he is hereby authorized to make, all sums of money paid or advanced on account thereof, and the costs thereof, shall be and be deemed a lien and charge in favour of the person paying the same, his executors or administrators, not only upon the estate or interest of the person making such default as aforesaid, but upon all the inheritance in which such estate or interest is subsisting, in priority to all other interests or charges whatsoever upon such inheritance, save and except any charges created under the Acts relating to the drainage of lands or to the improvement of lands in Ireland; and such sums of money and costs shall also be recoverable by the person paying the same from the person who has made such default, or his representatives, in and by an action of debt; and all sums of money paid and costs incurred in respect of such lien or charge by any person damnified thereby shall also be recoverable by such person from the person who has made default, or his representatives, in manner aforesaid; and it shall be lawful for any person having the benefit of such lien or charge, or damnified thereby as aforesaid, to apply by petition in a summary way to the Court of Chancery, . . . for the appointment of a receiver over such estate, interest, or inheritance, and which receiver it shall be lawful for the said courts respectively to appoint, and to continue until all such sums of money and costs, with interest, and the costs of such petition and of the proceedings thereunder, are fully paid and discharged, and to make such order in reference to such petition as to such courts respectively may seem fit.

Effect of redemption.

Costs of redemption.

22. Where the owner of any lease or under-lease in perpetuity, of any degree of tenure, of lands in Ireland, has required a grant under this Act, and the owner of the reversion, lease, or superior under-lease, or estate from whom such grant has been required disputes the right to such grant, or in case such owners shall differ as to what covenants, conditions, exceptions, or reservations shall be contained in such grant, or what exceptions, reservations, or rights should be commuted, or otherwise as to

Application to Court of Chancery in case of disputed right to grant, and in other cases.

the terms or conditions of such grant, or the amount of fee-farm rent to be made payable thereunder, or in case the owner of the reversion, superior lease, under-lease, or estate who might be required to execute a grant under this Act be a minor, idiot, lunatic, feme covert, or not within the United Kingdom, and there be no guardian, committee of the estate, husband, or attorney respectively of such owner competent to act under the provision herein-before contained, or where the owner who might be required to execute a grant under this Act is not known, or there is or are any arrear of rent, fine or fines, or fees, which under this Act might be required to be paid before the execution of a grant under this Act, and the owner required to execute such grant has refused to accept payment thereof, or there is no person to whom the same can properly be paid, or it is not known to whom the same ought to be paid, it shall be lawful for the owner of the lease or under-lease in perpetuity who has required such grant or would be entitled to require the same, as the case may be, to apply to the Court of Chancery in Ireland, in a summary way, by petition, praying that a grant may be executed to him under this Act, or that it may be declared what covenants, conditions, exceptions, and reservations should be contained in such grant, or that any such exceptions, reservations, or rights as aforesaid may be commuted, or that the terms or conditions of such grant may be settled, or that the amount of the fee-farm rent may be determined, or such other relief as shall be applicable to the case; and every such petition shall be intituled "In the Matter of the Renewable Leasehold Conversion Act," ex parte the person who presents such petition, and shall state the date and names of the parties to whom and the short contents of the lease or under-lease in respect of which the same is presented, and of the last renewal thereof, with the name of the lands, and the parish, barony, and county in which the same are situate, and the nature and extent of the estate or interest of the petitioner in such lease or under-lease, and shall, where the right of the petitioner to a renewal of such lease or under-lease is disputed, state that such right is disputed, and shall state such other matters as the circumstances of the case may require; and every such petition shall be verified by the affidavit of the person by whom the same is presented, or of his solicitor, attorney, or agent, or otherwise as the court shall consider sufficient, and in all cases under this Act the reversion, lease, and under-lease respectively shall be sufficiently represented by the respective owners thereof, and it shall not be necessary to bring before the court any other parties interested in such reversion, lease, and under-lease respectively, unless in special cases the court shall otherwise direct.

Proceedings
upon petition.

23. Where such petition as aforesaid is presented in respect of a lease or under-lease the right to a renewal of which is disputed, such petition shall be heard by the court, and the court may upon the hearing determine the right to such renewal, or retain the petition until such right be established on a bill filed or other

proper proceeding taken for such purpose, or may refer the said matter of such petition to the master, or make such other order in the matter of such petition as the court may think fit; and such petition shall, fourteen days before the hearing thereof, be served by or on behalf of the party presenting the same on the owner of the reversion, lease, under-lease, or estate from the owner whereof the grant under this Act was required; and where such petition is presented in respect of a lease or under-lease the right to a renewal of which is not disputed, it shall be in the discretion of the court either to make an order for hearing thereon, or else ex parte to make an order referring the matter of such petition to the master.

24. Where the matter of any such petition as aforesaid is referred to the master, either upon the hearing or ex parte, such master shall thereupon proceed to inquire into the matter of such petition, and shall require notice, in such form as he may think fit, of such petition and of the rule or order thereon, and of a time and place for the parties to appear before him, to be served upon the owner of the reversion, lease, under-lease, or estate, from the owner whereof the grant under this Act was or might be required, or in case such owner be under disability or out of the United Kingdom, and there be no guardian, committee, husband, or attorney competent to act for such owner under the provision herein-before contained, then the master may require such substituted service as he may think fit of such notice as aforesaid; and at the time and place fixed by such notice the master shall proceed to inquire and ascertain whether the petition is presented by a person entitled to require a grant under the provisions of this Act of an estate of inheritance in the lands comprised in the lease or under-lease in perpetuity in respect of which such petition is presented, and in case he so find he shall proceed to ascertain the amount of the fee-farm rent to be made payable by such grant, and to settle the terms and conditions of such grant, in case the parties differ about the same or the nature of the petition shall so require, and when the owner from whom a grant might be required is under disability, and there is no guardian, committee, husband, or attorney as aforesaid of such owner, or where such owner is not known, shall nominate a person to be substituted for the purposes of this Act in all proceedings under such petition as aforesaid in the place of such owner; and where there is any arrear or sum of or in respect of rent, or any fine or fines, or fees, which under this Act might be required to be paid before the execution of a grant under this Act, and the owner required to execute such grant has refused to accept payment thereof, or there is no person to whom the same can properly be paid, or it is not known to whom the same ought to be paid, the master shall require the full amount of such arrear or sum of or in respect of rent, and of such fine or fines, with interest thereon, and of such fees, to be lodged, under a special direction of the master, in the Bank of Ireland, in the matter of such petition, with the privity of the

Proceedings
upon reference
to master.

accountant general of the court, for the use of the party specified in such direction; and the fact of such payment, and the cause or reason of the previous nonpayment of the amount so paid, and the facts relating thereto, shall be stated by the master . . . specially in his report.

Master to make report on petition.

25. The master shall make his report in relation to the matter of such petition, and such report shall state the application to the court, and the result of his inquiries and proceedings under the reference, and where the petitioner is entitled to a grant such report shall refer to the draft of the grant as settled or approved by such master, and shall state by whom such grant and the counterpart thereof should be executed, or should have been executed if not under disability or out of the United Kingdom, and shall state all such other matters as to the master may seem expedient for carrying into due execution the provisions of this Act.

Confirmation or amendment of report.

26. After the master has made his report, notice of the filing of such report shall be served by or on behalf of the petitioner on the party on whom notice of the petition is required to be served; and at any time before the expiration of the next ensuing term after such service it shall be lawful for the petitioner or the party so served, or any other person interested in the matter of the petition or report, (such other person first obtaining, on an ex parte motion, the leave of the court so to apply,) to apply to the court by motion, on notice to the opposite party, or, where the application is by any such other person as aforesaid, on notice to both parties to the proceedings under the petition, and to such other persons (if any) as the court may, on such ex parte application as aforesaid have directed, to set aside such report, or to vary or amend the same in any particulars specified in such notice of motion; and thereupon it shall be lawful for the court to make such order in relation to the matters aforesaid as the court may think fit; and the court, if it so think fit, may upon the hearing of any such motion either wholly confirm such report, or vary or amend the same in the particulars mentioned in such notice, or in any other particulars, and confirm the same with such variations or amendments; and in case no such application be made to the court within such time as aforesaid, such report may and shall be confirmed according to the course and practice of the court.

Grant or counterpart may be executed by master.

27. It shall be lawful for the court, upon the hearing of any such motion made on notice as aforesaid, or upon any application made after the confirmation of the report, where it may seem fit so to do, on account of the disability, absence, or refusal of any person by whom the grant or counterpart respectively should be executed, or on account of any such person being unknown or unascertained, to order that such grant or counterpart, as the case may be, be executed by the master; and every grant and counterpart respectively so executed shall have the same force and effect as if the same had been executed by the owner

of the reversion, lease, superior under-lease, or estate, or lease, under-lease, or inferior under-lease, as the case may be, on account of whom the same is so executed by the master.

28. It shall be lawful for the owner of an under-lease in perpetuity, immediately derived out of a lease in perpetuity, where such owner is entitled to require the owner of the lease in perpetuity to procure the renewal thereof, and whether the time for renewal of such lease or under-lease has or has not arrived, to apply to the Court of Chancery, by petition, in manner herein-before mentioned, praying that a grant may be executed to the owner of such under-lease under this Act, and also praying that a like grant may be made by the owner of the reversion to and accepted by the owner of such lease in perpetuity, and praying such other relief as may be applicable to the case; and it shall be lawful for the owner of an inferior under-lease in perpetuity entitled to require the owner of the immediately superior under-lease in perpetuity to procure a renewal thereof, and whether the time for the renewal of such inferior under-lease, or of any under-lease superior thereto, or of the lease in perpetuity, has or has not arrived, to apply by petition as aforesaid, praying that a grant may be executed to such first-mentioned owner under this Act, and also praying that the like grant or grants (as the case may require) may be made to and accepted by the owner of the immediately superior under-lease in perpetuity, and to and by the owner of each under-lease in perpetuity (if any) superior to such under-lease, (where such owner is under the like obligation to the owner of the immediately inferior under-lease in perpetuity to procure renewal,) and to and by the owner of the lease in perpetuity, (where such owner is under the like obligation to the owner of the immediate under-lease in perpetuity to procure renewal,) from the owner or respective owners from whom a grant or grants might be required under this Act by such respective owners as aforesaid, and praying all such other relief in relation to such grant or grants as may be applicable to the case; and upon such petition being presented it shall be in the discretion of the court to make an order for hearing thereon, or ex parte to make an order referring the matter of such petition to the master; and all such inquiries, directions, orders, and proceedings shall and may be made, given, and taken, in relation to the several grants prayed for by such petition, as if such grants had been prayed for by the owners to whom such grants are thereby prayed to be made; and all the provisions herein contained in relation to the proceedings by and before the master, his report, and the execution by him of a grant or counterpart, upon or after a reference to such master under a petition presented under the provision herein-before contained, shall extend and be applicable to a reference to the master under a petition presented under this provision; and where there is any arrear or sum of or in respect of rent, or any fine or fines, or fees, which under this Act might be required to

Under-lessees entitled to require lessors to procure renewals, may petition for grants to themselves by their lessors, and grants to their lessors, and the holders of superior under-leases, by the owners of the superior under-leases, or of the reversions.

Proceedings on petitions.

Payment of arrears or sums in respect of

finer by any person interested, on default of owner to whom grant should be made.

be paid before the execution of a grant under this Act, and the owner to whom such grant should be made neglects or refuses to pay the same within such time as the master or the court may appoint, it shall be lawful for any person interested in the lands to be comprised in the grant, or in any fee-farm, rent to be made payable out of such lands or any part thereof, and who shall be in this behalf authorized by the master or the court, to pay such arrear or sum of or in respect of rent, and such fine or fines, with interest thereon, and such fees; and all sums so paid, and the costs (if any) incurred in relation to such payment, shall be and be deemed a like lien and charge in favour of the person paying the same, his executors or administrators, and with the like priority, as herein-before provided in the case of money paid on account of the redemption of lands from a judgment and execution in ejectment, and the costs of such redemption, subject only to the priority given to the charge and lien created in respect of such money and costs as last aforesaid; and all sums of money paid under this provision, and the costs in relation to such payment, shall also be recoverable by all the like ways and means, with the costs of the proceedings for recovery thereof, as money paid for such redemption as aforesaid, and the costs thereof, are under the provision herein-before contained recoverable.

Persons becoming parties to proceedings, and persons claiming under them, to be subject to the jurisdiction of the court.

29. All persons who shall become parties to any proceedings under this Act, by making any application to the court, or by submitting to the jurisdiction thereof, or by attending before the master in the course of such proceedings, or by otherwise taking part therein, and the representatives of the petitioner, and of all such persons, and all persons claiming under him or them by their act or by act of law subsequent to their becoming subject, shall for the purposes of this Act be subject to the jurisdiction of the court, and to all orders of the court and of the master in the course of any such proceedings, in like manner and as fully as parties to a cause pending in the court are so subject in such cause.

Master may examine parties, &c.

30. In order to enable the master to ascertain such particulars as it may be necessary for him to ascertain upon any reference to him under this Act, he shall be at liberty to examine upon oath the party who has presented any petition, and to inquire by affidavit, and by examination of witnesses, and by other evidence, respecting any of the matters referred to him; and the owner of any lease or under-lease respecting which any inquiry is made as herein-before directed shall, when thereto required by the master, produce such lease or under-lease, and all other deeds or instruments under or by virtue of which such owner holds the lands respecting which such inquiry is made, and shall produce and furnish such proof or information as the master requires as to the rent, fine or fines, and fees (if any), payable under such lease or under-lease, and as to the existence and the age of the person or persons upon whose life or lives (if any) such lease or under-lease depends, and as to

Production of leases and other evidence.

the rent, fines, interest, and fees (if any), which have become due or payable.

31. Whenever any notice required to be given by this Act, or which is required or necessary for carrying into effect any of the provisions of this Act, cannot be given or delivered to the person to or for whom such notice is directed or intended, it shall be sufficient for the person obliged to give such notice to leave the same at the last known or most usual place of abode of the person to or for whom such notice is directed or intended, with an inmate of such place of abode aged sixteen years or upwards, if such place of abode be within Ireland, and if the same be not within Ireland, then to serve such notice on the agent or attorney of such person, or the receiver of the rents of his estate, and if such agent, attorney, or receiver cannot be discovered, then it shall be sufficient service of such notice to publish the same at least once in each week, in two successive weeks, by advertisement in the Dublin Gazette, and in two newspapers published in Dublin, and in one newspaper circulating in the county in which the lands to which the notice relates or the greater part thereof are situate, and also to give such notice to any principal occupier of any of such lands, or, if the master so direct, to send such notice by the post to the last known address of the party on whom the same shall be required to be served, within such period as to admit of its being delivered within the period prescribed, if any, for such notice to be given, or to serve such notice on such person and in such manner as the master directs.

Mode of serving notices, &c.

[*Ss. 32, 33 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

34. All the provisions of this Act in relation to the amount of the fee-farm rent to be made payable by a grant under this Act, and the covenants, conditions, exceptions, and reservations to be contained in such grant, the commutation of exceptions, reservations, and rights, the allocation of land, and all other provisions of this Act concerning such grant and the effect and consequences thereof, shall, so far as the same are consistent with the provisions of this Act in relation to the proceedings by and under and consequential upon a petition presented under this Act, extend and be applicable to every such grant for or in relation to which a petition is presented.

Provisions concerning grants, &c., to be applicable to grants in relation to which petitions are presented.

35. For the purposes of this Act every person seised of or entitled at law or in equity to the reversion expectant on any lease in perpetuity, as tenant in fee simple, or in fee tail, general or special, or as tenant in dower or by the curtesy, or for life or lives, or for years determinable on a life or lives, or for a term of years absolute of which forty years or more are unexpired at the time of the application for a grant under this Act, and also every feoffee or trustee (for charitable or other purposes whatsoever) of any such reversion as aforesaid, for any such estate or interest therein as aforesaid (whether such estate or interest be

Who shall be deemed the owner of the reversion;

and of any
lease or
under-lease
in perpetuity.

Who to be
deemed owners
in case of
mortgages,
reversions,
charges, &c.

or not determinable upon the execution or fulfilment of any trusts), who is in the actual receipt of the rent reserved by any lease in perpetuity, and every executor or administrator who in that capacity, or as a special occupant of an estate pour autre vie, or as being entitled to an estate pour autre vie under any statute or otherwise, is in such receipt as aforesaid, and also any archbishop, bishop, parson, or other ecclesiastical person, as to a reversion held by him in his corporate capacity, shall be deemed to be the owner of the reversion; and every person entitled at law or in equity to a lease or under-lease in perpetuity for the whole estate created or agreed to be created by such lease or under-lease, or for any derivative estate (created by any instrument other than an under-lease at a rent), in tail, or quasi in tail, for life or lives, or for a term of years absolute of which not less than twenty years or more are unexpired at the time of the application under this Act for a grant to or by the owner of such lease or under-lease, and also every feoffee or trustee (for charitable or other purposes whatsoever) of any such lease or under-lease in perpetuity as aforesaid, for such estate therein as aforesaid (whether such estate be or not determinable upon the execution or fulfilment of any trusts), who is in the actual possession of the land or in receipt of the rents payable by the tenants thereof, and every executor or administrator who in that capacity, or as a special occupant of an estate pour autre vie, or as being entitled to an estate pour autre vie under any statute or otherwise, is in such possession or receipt as aforesaid, shall be deemed the owner of such lease or under-lease in perpetuity; and where a feme covert is entitled to rents and profits for her separate use (whether or not she be restrained from anticipation) she shall, for the purposes of this Act, be considered a feme sole: Provided always, that no person shall be deemed an owner for the purposes of this Act of the reversion, or of any lease or under-lease in perpetuity, by reason of any estate vested in him which has been created by way of mortgage, or for securing the payment of any sum of money, unless he be in the receipt of the rent incident to the reversion, or in possession of the land comprised in such lease or under-lease, or in receipt of the rents payable by the tenants thereof, (as the case may be,) but the person who would be deemed the owner for the purposes of this Act of such reversion, or lease or under-lease in perpetuity, if such estate by way of mortgage or for securing payment had not been created, shall, notwithstanding such estate, be deemed such owner as aforesaid: Provided also, that where several persons in succession have in the reversion, or lease or under-lease in perpetuity, such estates or interests as would under this enactment entitle each of them to be deemed the owner, such of the said persons shall be deemed the owner for the purposes of this Act as is in receipt of the rent incident to the reversion, or in possession of the land comprised in such lease or under-lease, or in receipt of the rents payable by the tenants thereof, as the case may be; or in

case the person in such receipt or possession be not entitled to be deemed the owner under this enactment, then the person who has the first such estate or interest as aforesaid in reversion or remainder to or above the estate or interest of the person in such receipt or possession shall be deemed the owner of such reversion, or lease or under-lease in perpetuity: Provided also, that in every case in which any person, not being the owner as herein-before defined, is in possession or receipt as herein-before mentioned under any charge, or any sequestration, extent, elegit, or other writ of execution, or as a receiver under any decree or order of a court of equity, the person in possession or in receipt of the rents by virtue of such charge, sequestration, extent, elegit, writ, decree, or order, shall, jointly with the person who but for such possession or receipt would under this enactment be deemed the owner of the reversion, or lease or under-lease in perpetuity, as the case may be, be deemed to be the owner for the purposes of this Act of the reversion, or lease or under-lease in perpetuity, as the case may be.

36. Every person who under the provisions herein-before contained would for the purposes of this Act be deemed the owner of the reversion, or of a lease or under-lease in perpetuity, if the same were not converted under this Act, shall, where such reversion, or the estate held under such lease or under-lease, has been so converted, be deemed for the purposes of this Act the owner of the estate created by such conversion.

Person to be deemed owner of reversion, &c., shall be deemed owner of estate created on conversion.

37. Every lease of lands in Ireland for one or more life or lives, with or without a term of years, or for years determinable upon one or more life or lives, or for years absolute, with a covenant or agreement for perpetual renewal, made after the passing of this Act by any person competent to convey an estate of inheritance in fee simple, (and not so made in pursuance of a covenant or agreement entered into before the passing of this Act,) shall, notwithstanding anything therein contained to the contrary, be deemed to be and shall operate as a conveyance of the lands specified therein to the intended lessee, his heirs and assigns for ever, at a fee-farm rent equal to the rent expressed to be reserved in such lease; and all reservation of fine or fines upon or fees for or in respect of such renewal, and all and every covenant, contract, or agreement for the payment of such fine or fees, shall be altogether void; and every contract for such a lease entered into after the passing of this Act by any such person as aforesaid (not being a renewal of a contract in pursuance of an agreement in that behalf made before the passing of this Act) shall, notwithstanding anything therein contained to the contrary, be deemed to be a contract for a conveyance of the lands specified therein to the intended lessee his heirs and assigns, at a fee-farm rent equal to the rent in such contract proposed to be reserved; and any such fee-farm rent shall be recoverable by all the means and remedies provided for the recovery of fee-farm rents made payable by a grant

Future leases in perpetuity to operate as conveyances at fee-farm rents;

and reservations of fines for renewal to be void.

Contracts for such leases to be deemed contracts for conveyances at fee-farm rents.

Recovery of such rents.

under this Act, and the provisions of this Act, so far as the same may be applicable, shall be applied to such cases.

Interpretation.

38. The following words and expressions shall in this Act have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number; words importing the masculine gender only shall include females; the word "person" and the word "owner" shall extend to a body politic, corporate, or collegiate, aggregate or sole; the word "lands" shall extend to messuages, tenements, tithes, tithe rent-charges, and hereditaments; the word "lease" shall include a grant or an agreement or contract for a lease or grant; and the word "under-lease" shall include a grant or an agreement or contract for an under-lease or grant, and shall include an under-lease carved out of an under-lease in any degree of tenure; the expression "lease in perpetuity" shall be taken to apply to all cases where any hereditaments have been or shall be, by a lease or contract derived immediately from the freehold and inheritance, demised, leased, or granted, or contracted to be demised, leased, or granted, for one or more life or lives, with or without a term of years, or for years determinable upon one or more life or lives, or for years absolute, with a covenant or agreement, by a party competent thereto, in any of such cases, whether contained in the instrument by which such lease or contract is made or in a separate instrument, for the perpetual renewal of such lease or contract; the expression "under-lease in perpetuity" shall be taken to apply to all cases where any of the land comprised in any such lease in perpetuity or contract for a lease in perpetuity have been or shall be under-leased or granted, or contracted to be under-leased or granted, for one or more life or lives, with or without a term of years, or for years determinable upon one or more life or lives, or for years absolute, with a covenant or agreement, whether contained in the instrument by which such under-lease or contract for an under-lease is made or in a separate instrument, for the perpetual renewal of such under-lease or contract; and for the purposes of this Act an assignment reserving a yearly rent, or a contract of such assignment, shall be deemed to be an under-lease or contract for an under-lease respectively, although the person making such assignment or contract may have parted with or agreed to part with his whole estate in the hereditaments therein comprised; and the word "covenant" shall be deemed to include an agreement; and for the purposes of this Act a covenant or agreement giving in respect of a lease or under-lease for a term of not less than ninety years, determinable on a life or lives, a perpetual right of renewal on the dropping of a life or lives within the term for which such lease or under-lease, or the renewed lease or under-lease for the time being in force, may have been granted,

shall, although such covenant or agreement may not give right of renewal in the event of the termination of such term by effluxion of time, be deemed a covenant or agreement for perpetual renewal of such lease or under-lease; and the word "fine" shall include not only a sum of money, but any heriot, matter, or thing to be given or done upon or for or in consideration of the obtaining of any renewal; and "the court" shall mean the Court of Chancery . . . , to which a petition shall be presented under this Act; and the word "master" shall mean any of the masters in ordinary of the Court of Chancery; and the word "remembrancer" shall mean the chief or second remembrancer of the Court of Exchequer.

39. In citing this Act in other Acts of Parliament, or in legal instruments or pleadings, it shall be sufficient to use the expression "The Renewable Leasehold Conversion Act"; and in like manner, in like cases, in describing any fee-farm rent payable under the provisions of this Act, it shall be sufficient to use the expression "fee-farm rent under the Renewable Leasehold Conversion Act."

Short title of Act, and of fee-farm rents payable thereunder.

40. This Act shall extend only to lands situate within that part of the United Kingdom of Great Britain and Ireland called Ireland.

Extent of Act.

[S. 41 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CIX.

AN ACT to amend an Act to regulate certain Offices in the Petty Bag in the High Court of Chancery, the Practice of the Common-Law Side of that Court, and the Enrolment Office of the said Court.^[1] [1st August 1849.]

[*Preamble.*]

[*Whole Act except ss. 29-31, 45 rep. 56 & 57 Vict. c. 54. (S.L.R.)*]

29. Any writ of scire facias for repealing, cancelling, or vacating any letters patent or charter, which shall or may at any time hereafter be issued in any action at the suit of her Majesty, shall or may be directed and sent to the sheriff of any county in England or Wales, although the record upon which such writ shall be founded or issued may be or remain in the county of Middlesex or any other county; and it shall not be necessary that any such writ which at any time hereafter may be issued and directed to the sheriff of any such county as aforesaid shall be a testatum writ, or founded upon any previous writ directed or sent to the sheriff of Middlesex or any other county.

Writs of scire facias for repealing letters patent, &c. may be directed to sheriff of any county.

30. In case any defendant in any action, suit, or proceeding . . . shall appear on the common-law side of the Court of Chancery, in person or by attorney, to answer in such action,

Declaration and traverse in actions, &c. on common law side.

[¹ A short title "The Petty Bag Office and Enrolment in Chancery Amendment Act, 1849," was given to this Act by s. 51.]

suit, or proceeding, it shall not be necessary to file any declaration, but the plaintiff or prosecutor, or his attorney, shall deliver the declaration to such defendant or his attorney, . . . and on the traverse of an inquisition found the traverse shall be filed in the Petty Bag Office, and the traverser or his attorney shall deliver a copy thereof to the opposite party or his attorney.

Delivery of subsequent pleadings.

31. In any such action, suit, or proceeding as aforesaid no demurrer, nor any plea or pleading subsequent to the declaration or traverse, shall be filed in the said Office of the Petty Bag, or otherwise in the said Court of Chancery; and in every such action, suit, or proceeding every such demurrer, plea, and subsequent pleading shall be delivered by the party demurring or pleading, or his attorney, to the opposite party or his attorney; and the issue in any such action, suit, or proceeding shall be delivered only, and not filed, and shall or may be made up and delivered by either party or his attorney to the opposite party or his attorney.

* * * * *

Affidavits, &c., may be sworn before clerk of petty bag.

45. Any affidavit, affirmation, or declaration to be sworn or made or taken, and read or used, in the said court, shall or may be sworn, made, or taken by or before the clerk of the petty bag for the time being, who is hereby authorized and required to administer, receive, or take the necessary and proper oath, affirmation, or declaration to every person desirous of swearing, making, or taking any such affidavit, affirmation, or declaration as aforesaid; and every person who shall wilfully and corruptly swear, affirm, or declare falsely in any such affidavit, affirmation, or declaration shall be guilty of perjury, and shall be prosecuted and punished accordingly.

False swearing, &c., punishable as perjury.

* * * * *

CHAPTER CX.

AN ACT for suspending, until the First Day of June One thousand eight hundred and fifty, the Operation of an Act passed this Session, intituled "An Act for granting Relief against Defects in Leases made under Powers of Leasing in certain Cases." [1st August 1849.]

[Preamble recites 12 & 13 Vict. c. 26.]

Recited Act not to come into operation until 1st June 1850.

[1.] The said Act shall be and the same is hereby rendered wholly inoperative until the first day of June one thousand eight hundred and fifty, in the same manner as if it had been originally enacted by the said Act that the same should not come into operation until that time.

13 & 14 VICTORIA. A.D. 1850.

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CHAPTER IV.

AN ACT for requiring the Transmission of annual Abstracts of Accounts and Statements of Trustees or Commissioners of Bridges in Ireland to the Lord Lieutenant, to be laid before Parliament. [25th March 1850.]

[Preamble.]

[1.] The trustees or commissioners of every bridge trust in Ireland shall and they are hereby required, either by themselves or some committee of their number, annually to examine the vouchers and audit and settle the accounts of the respective clerks or secretaries and treasurers appointed by them, and to examine into the state of the revenues and debts, distinguishing bonded from floating debts, of the several bridge trusts for which they shall act as trustees or commissioners, and to make up abstracts of such accounts, each which abstract shall contain a statement of the revenues and debts of the bridge trust, and also an account of all bonds given by the trustees or commissioners, and the dates thereof, which said abstracts of accounts and statements shall be signed by not less than three of the trustees or commissioners.

Trustees of bridge trusts to examine and audit their accounts annually.

2. The several and respective clerks or secretaries to such trustees or commissioners by whom or by whose committees such abstracts of accounts and statements of revenues and debts of the bridge trusts under the charge of such trustees or commissioners are directed to be made and signed as aforesaid shall . . . upon the first day of October in all future years, transmit to the Lord Lieutenant abstracts and statements, made up and signed in the manner herein-before directed, and in the form of the said schedule (A.), or as nearly in the said form as circumstances will permit, for the year ending on the thirty-first day of December then next preceding; and if any clerk or secretary to such trustees or commissioners shall refuse or neglect to transmit such annual abstracts and statements within the time herein-before prescribed, then and in every such case every clerk or secretary so offending shall for every such offence forfeit and pay any sum not exceeding ten pounds nor less than five pounds, at the discretion of any justice or justices of the peace before whom complaint of such offence shall be made.

Clerks of bridge trusts annually to transmit to the Lord Lieutenant abstracts of accounts.

3. The Lord Lieutenant to whom such annual abstracts and statements shall be transmitted shall cause the same to be revised, abstracted, and arranged, and laid before both Houses of Parliament, together with any observations which he may think proper to be made respecting the state, condition, and repair of the bridges, or any of them, or respecting the debts,

Lord Lieutenant to cause, abstracts, &c. to be laid before Parliament.

revenues, expenditure, and management of any such bridge trusts.

On application for new Act, &c., clerk to transmit copy of resolution and particulars to the Lord Lieutenant.

4. When and as often as the trustees or commissioners of any bridge shall have entered into a resolution to apply to Parliament for any new bridge Act, or for the continuation of the term and powers of the Act under which any bridge is regulated, or for the alteration or enlargement of the powers and provisions of such Act or any of them, or for an alteration of the tolls or pontages to be levied on such bridge, the clerk or secretary of such trustees or commissioners shall immediately thereupon transmit a copy of such resolution to the Lord Lieutenant, together with a copy of any special clauses proposed to be inserted in the intended Act, and also a statement of the alteration of tolls or pontages intended to be made.

Recovery and application of penalties.

5. The penalties hereby imposed shall be recovered in such and the like manner and subject to like provisions as the penalties imposed by and under the Acts for the more effectual relief of the destitute poor in Ireland are directed to be recovered, and shall be from time to time paid, one moiety thereof to the informer or person suing for and recovering the same, and the other moiety to the treasurer or treasurers to the trustees or commissioners for repairing or maintaining the bridge relating to which such offence shall have been committed, and be applied and disposed of for the purposes of such bridge.

[S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Sect. 2.

SCHEDULE (A.)

General Statement of the Income and Expenditure of the Bridge Trust in the county of _____, for the period between the first day of January and the thirty-first day of December in the year _____

INCOME.	£ s. d.	EXPENDITURE.	£ s. d.
Balance in treasurer's hands } brought forward		Balance due to the treasurer } brought forward	
Revenue received from tolls		Manual labour	
Revenue from fines		Carriage of materials	
from incidental receipts		Materials for surface repairs	
Amount of money borrowed } on the security of the tolls		Land purchased	
		Damage done in obtaining } materials	
		Tradesmen's bills	
		Salaries: Treasurer	
		Secretary	
		Clerk	
		Surveyor	
		Other officer	
		Law charges	
		Interest on debt	
		Annuities	
		Improvements	
		Watering roads	
		Debts paid off	
		Incidental expenses	
Balance due to the treasurer		Balance in the treasurer's } hands	

DEBTS.		Rate of Interest per cent.	ARREARS OF INCOME.		Insert the name and place of abode of the treasurer, clerk, or secretary, general and superintending surveyor, below.
	£ s. d.	£ s. d.		£ s. d.	
Bonded debt - -			Arrears of tolls for current year - }		
Floating ditto - -			Arrears of any other receipt ditto - }		
Unpaid interest - -			Arrears of former years - }		
Balance due to the treasurer - - }					
Total debts - -			Total Arrears -		

CHAPTER VII.

AN ACT for consolidating the Office of the Registrar of Metropolitan Public Carriages with the Office of Commissioners of Police of the Metropolis, and making other Provisions in regard to the consolidated Offices. [25th March 1850.]

[Preamble.]

[S. 1 (abolishing office of Registrar of Metropolitan Public Carriages), rep. 38 & 39 Vict. c. 66. (S.L.R.)]

2. All the jurisdiction, powers, authorities, privileges, interests, and duties now vested in or exercised by the office of registrar of metropolitan public carriages hereby abolished shall be transferred to and vested in and shall hereafter be exercised by the Commissioners of Police of the Metropolis, in as full and ample a manner, to all intents and purposes, as they were vested in and might have been exercised by the said registrar of metropolitan public carriages.

Duties of abolished office transferred to Commissioners of Police.

[S. 3 rep. 54 & 55 Vict. c. 67. (S.L.R.)]

4. It shall be lawful for the said Commissioners of Police from time to time to appoint standings for hackney carriages at such places as they shall think convenient in any street, thoroughfare, or place of public resort within the metropolitan police district, any law, statute, or custom to the contrary thereof notwithstanding, and at their discretion to alter the same, and from time to time to make regulations concerning the boundaries of the same, and the number of carriages to be allowed at any such standing, and the times at and during which they may stand and ply for hire at any such standing, and also from time to time to make such regulations as the said commissioners shall deem proper for enforcing order at every such standing, and for removing any person who shall unnecessarily loiter or remain at or about any such standing; and the said commissioners shall cause all the orders and regulations to be made by them as

Standings for hackney carriages to be appointed and regulated by Commissioners of Police.

aforesaid to be advertised in the London Gazette, and a copy thereof, signed by one of the said commissioners, to be hung up for public inspection in the office of the Commissioners of Police in the City of Westminster, and at each of the police courts; and such copy shall be received in evidence in the said courts as if it were the original of which it purports to be a copy, and shall be taken to be a true copy of such original order or regulation, without further proof than the signature of the said commissioner.

[S. 5 (*repealing portions of Acts in force before 6 & 7 Vict. c. 86.*),
rep. 55 & 56 Vict. c. 19. (S.L.R.)]

Saving of
Bloomsbury
Square Act,
46 Geo. 3.
cap. cxxxiv.

6. Provided always, that nothing in this Act or in the said Act of the seventh year of the reign of her present Majesty contained shall alter or repeal, or be construed to alter or repeal, or invalidate, or in anywise prejudicially affect, either wholly or in part, an Act passed in the forty-sixth year of the reign of his Majesty King George the Third, intituled "An Act for ornamenting and embellishing the centre or area of Bloomsbury Square in the parish of Saint George Bloomsbury in the county of Middlesex, and for preventing hackney coaches standing or plying for hire in or near the said square."

[S. 7 *rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

This Act to be
construed with
6 & 7 Vict.
c. 86.

8. This Act shall be construed as one Act with the London Hackney Carriages Act, 1843, and all the provisions of the said Act, except so far as is herein otherwise provided, shall extend to this Act, and to all things done in execution of this Act.

[S. 9, 10 *rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XVII.

AN ACT to amend an Act of the last Session of Parliament, for granting Relief against Defects in Leases made under Powers of Leasing. [31st May 1850.]

12 & 13 Vict.
c. 26.
12 & 13 Vict.
c. 110.

WHEREAS an Act was passed in the last session of Parliament, "for granting relief against defects in leases made under powers of leasing in certain cases"; and by another Act of the same session the operation of the said first-recited Act was suspended until the first day of June one thousand eight hundred and fifty: And whereas it is expedient that the said first-recited Act should be amended:

[S. 1 *rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

In certain
cases accept-
ance of rent
under invalid
lease to be
deemed a con-
firmation of
lease.

2. Where, upon or before the acceptance of rent under any such invalid lease as in the said first-recited Act mentioned, any receipt, memorandum, or note in writing, confirming such lease, is signed by the person accepting such rent, or some other person by him thereunto lawfully authorized, such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease.

3. Where during the continuance of the possession taken under any such invalid lease as in the said first-recited Act mentioned the person for the time being entitled (subject to such possession as aforesaid) to the hereditaments comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, the lessee, his heirs, executors, or administrators (as the case may require,) or any person who would have been bound by the lease if the same had been valid, shall, upon the request of the person so able to confirm the same, be bound to accept a confirmation accordingly; and such confirmation may be by memorandum or note in writing, signed by the persons confirming and accepting respectively, or by some other persons by them respectively thereunto lawfully authorized; and after confirmation and acceptance of confirmation such lease shall be valid, and shall be deemed to have had from the granting thereof the same effect as if the same had been originally valid.

Where during possession under invalid lease reversioner is able and willing to confirm such lease without variation, lessee shall accept such confirmation on request.

[S. 4 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XX.

AN ACT to amend an Act of the Fifth and Sixth years of Her present Majesty, for the Appointment and Payment of Parish Constables. [10th June 1850.]

[*Preamble recites* 5 & 6 *Vict. c.* 109.]

[1.] The provisions in the said recited Act made in case of vacancy by death or disqualification of any constable during his year of office shall be extended to the discharge of any constable which shall take place under the powers of the said recited Act.

Provisions of recited Act in case of vacancy by death extended to discharge of parish constables.

2. And whereas it is by the said recited Act enacted, that certain fees and allowances, to be settled by justices in general or quarter sessions assembled, shall be paid to constables for the service of summonses and execution of warrants: Be it enacted, that the said fees and allowances so settled by the justices in general or quarter sessions, and approved by a Secretary of State, as in the said recited Act is required, shall in like manner be paid to the said constables for the execution of any order of a justice made in writing, or for the performance of any occasional duties, the same being sanctioned and allowed by justices in petty session assembled.

Fees and allowances to constables for execution of orders and occasional duties.

[S. 3 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

4. And whereas it is by the said recited Act enacted, that due notice shall be given to justices to hold special sessions for the appointment of parochial constables, but it is not stated by whom such notice shall be given: Be it enacted, that such notice shall be given by the clerk or clerks to the said justices.

Notices for holding special sessions for appointment of constables to be given by clerks to justices.

Exemption of
Post Office
servants.

5. And whereas it is by the said recited Act enacted, that certain persons therein named shall be freed and exempt from serving the office of constable under the said Act: Be it enacted, that the said exemption shall extend to all postmasters and persons employed in the business of the Post Office.

[S. 6 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

Savings and
exceptions.

5 & 6 Will. 4.
c. 76.

3 & 4 Will. 4.
c. 90.

7. Nothing herein contained shall be taken to prevent the appointment of special constables, or to apply to the City of London or the metropolitan police district, or to any borough which is within the provisions of the Municipal Corporations Act, 1835, or of any charter granted in pursuance of that Act, or of any Act made for the amendment thereof, or to any parish, town, or place in which rates are or shall be levied for the payment of constables under the provisions of the Lighting and Watching Act, 1833, or of any local Act specially applying to such parish, town, or place; and nothing herein before contained shall be taken to apply to the county palatine of Chester.

Repayment to
parishes within
police district
of a portion of
the sums paid
by them to the
county rate.

8. . . . the justices in general or quarter sessions assembled shall in each year, at the time of making up their accounts for the year, ascertain what proportion any expences that have been incurred during the preceding year under this or the said recited Act shall bear to the gross amount of the county rate expended within the same period, and also what proportion of the said county rate has been levied within the metropolitan police district, and shall repay to each parish within the said metropolitan police district such proportion of the sums so levied as they shall ascertain to be a like proportion of the sums expended under this Act out of the county rate.

[S. 9 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

CHAPTER XXVI.

AN ACT to repeal an Act of the Sixth Year of King George the Fourth, for encouraging the Capture or Destruction of Piratical Ships and Vessels; and to make other Provisions in lieu thereof.^[1] [25th June 1850.]

[Preamble.]

[S. 1 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.)]

Jurisdiction
given to
admiralty
courts to
inquire into
cases of alleged
piracy.

2. Whenever any of her Majesty's ships or vessels of war, or hired armed vessels, or their boats, or any of the officers and crews thereof, shall attack or be engaged with any persons alleged to be pirates afloat or ashore, it shall be lawful for the High Court of Admiralty of England, and for all courts of vice admiralty in any dominions of her Majesty beyond the seas,

[¹ Short title, "The Piracy Act, 1850." See 55 & 56 *Vict.* c. 10.]

. to take cognizance of and to determine whether the persons or any of them so attacked or engaged were pirates, and to adjudge what was the total number of pirates so engaged or attacked, specifying the number of pirates captured, and what were the vessels and boats engaged.

3. With a view to the assignment of fitting rewards for services performed by her Majesty's forces against pirates the registrars of the several vice admiralty courts shall, on the first day of January and first day of July in every year, transmit to the Admiralty a list or return of all cases which shall have been adjudged in the said courts respectively under this Act during the six months preceding, together with the dates of the seizure, according to the schedule marked (A) to this Act annexed; and the judges or registrars of the said courts respectively shall, upon the first convenient opportunity after every such decision, transmit the whole of the original evidence, with a statement of the proceedings, to the Admiralty, for the purpose of the same being deposited in the High Court of Admiralty of England for reference when necessary; and all agents of officers and men receiving any rewards herein-before referred to shall be subject to the same laws, rules, and regulations to which agents receiving bounty for the abolition of the slave trade are or may be subject.

List or return of all cases decided in vice admiralty courts to be sent to the Admiralty.

[S. 4 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

5. All ships, vessels, boats, goods, merchandize, specie, or other property taken possession of from pirates by any of her Majesty's ships or vessels of war, or hired armed vessels, or their boats, or any of the officers and crews thereof, shall and may be proceeded against in any of the admiralty courts before mentioned, and be subject and liable to condemnation as droits and perquisites of her Majesty in her Office of Admiralty: Provided always, that if any part of the said property shall be duly proved to have belonged to and to have been taken from any of her Majesty's subjects, or from the subjects of any foreign power, then such property and every part thereof shall, by the decree of the said court, be adjudged to be restored, and shall be accordingly restored, to the former owner or owners, proprietor or proprietors thereof respectively, he or they paying for or in lieu of salvage a sum of money equal to one eighth part of the true value, which money shall be paid to and divided and distributed amongst the officers and crews thereof, in such manner, form, and proportion as other bounties are now distributable by virtue of her Majesty's proclamation or order in council dated the thirtieth day of July one thousand eight hundred and forty-nine, or as her Majesty, shall from time to time by any further proclamation or order or orders in council think fit to declare and direct;

Condemnation of ships, &c., taken from pirates.

6. Every person who shall wilfully and corruptly give false evidence in any examination or deposition had or affidavit taken

Perjury.

in any proceeding under this Act shall be deemed guilty of perjury, and being thereof convicted shall be subject and liable to all the punishments, pains, and penalties to which persons convicted of wilful and corrupt perjury are liable; and every such person may be tried for any such perjury either in the place where the offence was committed or in any colony or settlement of her Majesty near thereto in which there is a court of competent jurisdiction to try any such offence, or in her Majesty's Court of Queen's Bench in England; and in case of any prosecution for such offence in her Majesty's said Court of Queen's Bench the venue may be laid in the county of Middlesex.

[S 7 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Sect. 3. SCHEDULE (A.) referred to by this Act.

Date of attack or destruction.	Property seized, if any.	Names of attacking ships.	Date of sentence.	Decretal part of sentence.	Whether any property has been condemned, and sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.

CHAPTER XXVIII.

AN ACT to render more simple and effectual the Titles by which Congregations or Societies for Purposes of Religious Worship or Education in England and Ireland hold Property for such Purposes.^[1] [15th July 1850.]

[Preamble.]

Property acquired for religious or educational purposes, and conveyed to trustees or others, to vest in their successors for the time being without conveyance.

[1.] Wherever freehold, leasehold, copyhold, or customary property in England or Wales has been or hereafter shall be acquired by any congregation or society or body of persons associated for religious purposes, or for the promotion of education, as a chapel, meeting house, or other place of religious worship, or as a dwelling house for the minister of such congregation, with offices, garden, and glebe, or land in the nature of glebe, for his use, or as a schoolhouse, with schoolmaster's house, garden, and playground, or as a college, academy, or seminary, with or without grounds for air, exercise, or recreation, or as a hall or rooms for the meeting or transaction of the business of

[¹ Short title, "The Trustee Appointment Act, 1850." See 55 & 56 Vict. c. 10.]

such congregation or society or body of persons, and wherever the conveyance, assignment, or other assurance of such property has been or may be taken to or in favour of a trustee or trustees to be from time to time appointed, or of any party or parties named in such conveyance, assignment, or other assurance, or subject to any trust for the congregation or society or body of persons, or of the individuals composing the same, such conveyance, assignment, or other assurance shall not only vest the freehold, leasehold, copyhold, or customary property thereby conveyed or otherwise assured in the party or parties named therein, but shall also effectually vest such freehold, leasehold, copyhold, or customary property in their successors in office for the time being and the old continuing trustees, if any, jointly, or if there be no old continuing trustees, then in such successors for the time being wholly, chosen and appointed in the manner provided or referred to in or by such conveyance, assignment, or other assurance, or in any separate deed or instrument declaring the trust thereof, or if no mode of appointment be therein set forth, prescribed, or referred to, or if the power of appointment be lapsed, then in such manner as shall be agreed upon by such congregation or society or body of persons, upon such and the like trusts, and with, under, and subject to the same powers and provisions, as are contained or referred to in such conveyance, assignment, or other assurance, or in any such separate deed or instrument, or upon which such property is held, and that without any transfer, assignment, conveyance, or other assurance whatsoever, anything in such conveyance, assignment, or other assurance, or in any such separate deed or instrument, contained to the contrary notwithstanding: Provided always, that in case of any appointment of a new trustee or trustees of or the conveyance of the legal estate in any such property being made as heretofore was by law required, the same shall be as valid and effectual, to all intents and purposes, as if this Act had not been passed.

2. Where such property shall be of copyhold or customary tenure, and liable to the payment of any fine, with or without a heriot, on the death or alienation of the tenant or tenants thereof, it shall be lawful for the lord or lady of the manor of which such property shall be holden, on the next appointment of a new trustee or trustees thereof, and at the expiration of every period of forty years thereafter, so long as such property shall belong to or be held in trust for such congregation or society or body of persons, or other party or parties to whom such property may have been or shall be conveyed for their benefit, to receive and take a sum corresponding to the fine and heriot, if any, which would have been payable by law upon the death or alienation of the tenant or tenants thereof; and such payments shall be in full of all fines payable to the lord or lady of the manor of which such property is holden, while the same shall remain the property or be held in trust for such congregation or society or body of persons; and the lord or lady of such

Providing for payment in lieu of fines on death or alienation in respect of property of copyhold or customary tenure.

manor shall have all such powers for the recovery of such sums as such lord or lady could have had in the event of the tenant or tenants of such property having died, or having alienated the same.

Appointment
of new
trustees.

3. For the purpose of preserving evidence of every such choice and appointment of a new trustee or new trustees, and of the person and persons in whom such charitable estates and property shall so from time to time become legally vested, every such choice and appointment of a new trustee or new trustees shall be made to appear by some deed under the hand and seal of the chairman for the time being of the meeting at which such choice and appointment shall be made, and shall be executed in the presence of such meeting, and attested by two or more credible witnesses, which deed may be in the form or to the like effect of the schedule to this Act annexed, or as near thereto as circumstances will allow, and may be given and shall be received as evidence in all courts and proceedings in the same manner and on the like proof as deeds under seal, and shall be evidence of the truth of the several matters and things therein contained.

Extent of Act.

4. The provisions of this Act shall extend to that part of the United Kingdom called Ireland.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Sect. 3. SCHEDULE to which this Act refers.

MEMORANDUM of the choice and appointment of new trustees of the [describe the chapel, school, or other buildings and property], situate in the parish [or township] of , in the county [riding, division, city, or place] of , at a meeting duly convened and held for that purpose [in the vestry of the said chapel] on the [25th] day of [April 1850], A.B., of , chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees, made the day of

Adam Bell, of
Charles Dixon, of
Edward Foster, of
George Hurst, of
John Jackson, of
Kenneth Lucas, of
Matthew Norman, of
Octavius Parker, of

Names and descriptions of all the trustees in whom the said [chapel] and premises now becomes legally vested.

First.—Old continuing trustees.

John Jackson, now of
Matthew Norman, now of
Octavius Parker, now of

Second.—New trustees now chosen and appointed :—

Benjamin Adams, of
Charles Bell, of
Jonathan Edmonds, of
Richard Baxter, of
John Home, of

Dated this day of

William Hicks, (L.s.)
 Chairman of the said meeting.

Signed, sealed, and delivered by
 the said *William Hicks*, as
 chairman of the said meeting,
 at and in the presence of the
 said meeting, on the day and
 year aforesaid, in the presence
 of

C.D.

E.F.

[*The blanks, and parts in italics, to be filled up as the case may be.*]

CHAPTER XXIX.

AN ACT to amend the Laws concerning Judgments in Ireland.^[1]
 [15th July 1850.]

[*Preamble recites 5 & 6 Will. 4. c. 55. s. 31; 3 & 4 Vict. c. 105.
 ss. 19, 21, 22, 27; 7 & 8 Vict. c. 90; 11 & 12 Vict. c. 120;
 12 & 13 Vict. c. 95.*]

[1.] The provisions herein-before recited of the said Acts of [²the sixth year of King William the Fourth and] the fourth year of her Majesty shall not in anywise extend or be applicable to any judgment entered up in any of her Majesty's superior courts at Dublin, or obtained in any inferior court of record, after the passing of this Act, nor to any decree, order, or rule made after the passing of this Act, and no writ of elegit or writ of execution (save as herein-after mentioned) shall issue or be sued upon any such judgment, decree, order, or rule against any lands, tenements, or hereditaments, or any estate or interest therein, nor shall any lands, tenements, or hereditaments, or any estate or interest therein, be charged or affected by any such judgment, decree, order, or rule, save as provided by this Act.

2. Where any legal or equitable estate or interest or any disposing power in or over any lands, tenements, or hereditaments shall, under any conveyance, lease, deed, or instrument executed after the passing of this Act, become vested in any person as a purchaser for valuable consideration, such lands, tenements, or hereditaments shall not be taken in execution

Recited provisions of 3 & 4 Vict. c. 105. not to extend to judgments, &c., entered after passing of this Act.

Lands in hands of purchasers for value under conveyances executed after the passing of this Act not to be affected by existing judgments, &c.,

^[1] Short title, "The Judgment Mortgage (Ireland) Act, 1850." See 55 & 56 Vict. c. 10.]

^[2] Words in brackets rep. 54 & 55 Vict. c. 67. (S.L.R.)]

save as herein
provided.

under any writ of elegit or other writ of execution (save as herein-after mentioned) to be sued upon any judgment which before the passing of this Act has been entered up in any of her Majesty's superior courts at Dublin, or obtained in any inferior court of record, against such person, or any decree, order, or rule which has been made before the passing of this Act for payment by such person of any sum of money, costs, charges, or expenses, and no receiver shall be appointed over such lands, tenements, or hereditaments, in respect of any money due upon such judgment, decree, order, or rule, nor shall such judgment, decree, order, or rule operate as a charge upon or in anywise charge or affect such lands, tenements, or hereditaments, save as provided by this Act: Provided always, that this enactment shall not take away or affect any rights or remedies which might have been had against or in relation to such lands, tenements, or hereditaments, if this Act had not been passed, in respect of any estate, interest, right, title, or power, in, to, or over the same, which may have been in such person before the passing of this Act.

Provisions as to
judgments re-
docketed, &c.,
under
9 Geo. 4. c. 35.

7 & 8 Vict.
c. 90.

3 & 4 Vict.
c. 105.

3. No judgment re-docketed or entered after revival under an Act of the ninth year of King George the Fourth, intituled "An Act to protect purchasers for valuable consideration in Ireland against judgments not revived or re-docketed within a limited time," and not before the passing of this Act registered under the said Act of the eighth year of her Majesty, and no judgment of any superior court registered under such last-mentioned Act before the passing of this Act, and no decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy, registered under the Debtors (Ireland) Act, 1840, or the said Act of the eighth year of her Majesty before the passing of this Act, and no judgment, rule, or order of any inferior court registered under the said Act of the eighth year of her Majesty before the passing of this Act, shall, after the expiration of five years from the passing of this Act, affect lands, tenements, or hereditaments, as to purchasers, mortgagees, or creditors, unless and until a like memorandum or minute as is required for a registry thereof under the said Act of the eighth year of her Majesty be left with the officer appointed under that Act within five years before the execution of the conveyance, settlement, mortgage, lease, or other deed or instrument vesting or transferring the legal or equitable right to the estate or interest in or to any such purchaser or mortgagee for valuable consideration, or, as to creditors, within five years before the right of such creditor accrued: Provided always, that where twenty years from the date of the re-docket or entry under the said Act of the ninth year of King George the Fourth of any judgment has expired, or will expire before the expiration of five years from the passing of this Act, nothing in this enactment contained shall be taken to dispense with the registry

under the said Act of the eighth year of her Majesty of such judgment within such twenty years, or to give any greater validity or effect to such judgment than the same would have had under the provisions of the said Act of the eighth year of her Majesty in case this Act had not been passed.

4. No judgment of any superior court, decree or order in any court of equity, rule in any court of common law, order in bankruptcy or lunacy, or judgment, rule, or order of any inferior court, which, after the passing of this Act, shall be registered or re-registered under the said Act of the eighth year of her Majesty or this Act, shall, after the expiration of five years from the date of such registry or re-registry thereof, affect lands, tenements, or hereditaments, as to purchasers, mortgagees, or creditors, unless and until a like memorandum or minute as was required in the first instance be again left with such officer as aforesaid, within five years before the execution of the conveyance, settlement, mortgage, lease, or other deed or instrument vesting or transferring the legal or equitable right to the estate or interest in or to any such purchaser or mortgagee for valuable consideration, or, as to creditors, within five years before the right of such creditor accrued, and so toties quoties at the expiration of every succeeding five years.

Judgments, &c. registered or re-registered under 7 & 8 Vict. c. 90. not to affect lands in hands of purchasers, &c. unless re-registered within five years before date of conveyance, &c.

5. No *lis pendens* shall bind or affect a purchaser or mortgagee, without express notice thereof, unless and until a like memorandum or minute as is required for a registry thereof under the said Act of the eighth year of her Majesty be left with the officer appointed under that Act within five years before the execution of the conveyance, settlement, mortgage, lease, or other deed or instrument vesting or transferring the legal or equitable right to the estate or interest in or to such purchaser or mortgagee for valuable consideration, save where such *lis pendens* has been registered under the said Act of the eighth year of her Majesty before the passing of this Act, and such conveyance, settlement, mortgage, lease, or other deed or instrument is executed within five years after the passing of this Act.

Lis pendens not to affect purchasers, &c. unless registered within five years before execution of conveyance, &c.

6. Where any judgment shall be entered up after the passing of this Act in any of her Majesty's superior courts at Dublin, or any decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy, to which the effect of a judgment in one of the superior courts of common law is given by the Debtors (Ireland) Act, 1840, shall be made after the passing of this Act, or any judgment, rule, or order shall be obtained or made in or by any inferior court of record after the passing of this Act, and shall, under the provisions of the Debtors (Ireland) Act, 1840, be removed into one of her Majesty's superior courts of record at Dublin, and the creditor

Registration of affidavit of debts.

3 & 4 Vict. c. 105.

under any such judgment, decree, order, or rule shall know or believe that the person against whom such judgment, decree, order, or rule is entered up, obtained, or made is seised or possessed at law or in equity of any lands, tenements, or hereditaments, of any nature or tenure, or has any disposing power over any such lands, tenements, or hereditaments which he may, without the assent of any other person, exercise for his own benefit, and where any judgment has been entered up before the passing of this Act in any of her Majesty's superior courts at Dublin, or any decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy, to which the effect of a judgment in one of the superior courts of common law is given by the Debtors (Ireland) Act, 1840, has been made before the passing of this Act, or any judgment, rule, or order has been obtained or made in or by any inferior court of record before the passing of this Act, and has been or shall be, under the provisions of the Debtors (Ireland) Act, 1840, removed into one of her Majesty's superior courts at Dublin, and the creditor under any such judgment, decree, order or rule shall know or believe that the person against whom such judgment, decree, order, or rule is entered up, obtained, or made is seised or possessed as aforesaid of, or has such disposing power as aforesaid over, any lands, tenements, or hereditaments which by virtue of this Act are exempted from being taken in execution under any writ of execution to be issued upon such judgment, decree, order, or rule, it shall be lawful for such creditor, at any time and from time to time after the entering up or removal of such judgment in or into such superior court, or the making of such decree, order, or rule, or the passing of this Act, whichever shall last happen, to make and file in the superior court in, by, or into which such judgment, rule, or order is entered up, made, or removed, or in the court of equity by which such decree or order is made, or, in the case of such order in bankruptcy or lunacy as aforesaid, in the Court of Chancery in Ireland, an affidavit, stating the name or title of the cause or matter, and the court in which such judgment, decree, order, or rule has been entered up, obtained, or made, and the date of such judgment, decree, order, or rule, and the names, and the usual or last known place of abode, and the title, trade, or profession, of the plaintiff (if there be such), and of the defendant or person whose estate is intended to be affected by the registration, as herein-after mentioned, of such affidavit, and the amount of the debt, damages, costs or monies recovered or ordered to be paid by such judgment, decree, order, or rule, and stating that, to the best of the knowledge and belief of the deponent, the person against whom such judgment, decree, order, or rule is entered up, obtained, or made is at the time of the swearing of such affidavit so seised or possessed, or has such disposing power as aforesaid, of or over such lands, tenements, or hereditaments; and such affidavit shall specify the county and barony, or the town or county of a city, and parish,

or the town and parish, in which the lands to which the affidavit relates are situate, and where such lands lie in two or more counties or baronies, or parishes or streets, or partly in one barony, parish, or street, and partly in another, the same shall be distinctly stated in such affidavit; and it shall be lawful for the creditor making such affidavit to register the same in the office for registering deeds, conveyances, and wills in Ireland, by depositing in such office an office copy of such affidavit; and such copy shall be numbered and transcribed, and shall be entered in the books and indexes kept in the said office, in like manner as if the same were a memorial of a deed; and for the purpose of such entries the creditor under such judgment, decree, order, or rule shall be deemed the grantee, and the debtor thereunder shall be deemed the grantor; and the amount of the debt, damages, costs, or monies recovered or ordered to be paid thereby shall be deemed the consideration; and the like fee shall be paid on such registration as in the case of registering a memorial of a deed.

7. The registration as aforesaid of such affidavit shall operate to transfer to and vest in the creditor registering such affidavit all the lands, tenements, and hereditaments mentioned therein, for all the estate and interest of which the debtor mentioned in such affidavit shall at the time of such registration be seised or possessed at law or in equity, or might at such time create by virtue of any disposing power which he might then, without the assent of any other person, exercise for his own benefit, but subject to redemption on payment of the money owing on the judgment, decree, order, or rule mentioned in such affidavit; and such creditor, and all persons claiming through or under him, shall, in respect of such lands, tenements, and hereditaments, or such estate or interest therein as aforesaid, have all such rights, powers, and remedies whatsoever as if an effectual conveyance, assignment, appointment, or other assurance to such creditor of all such estate or interest, but subject to redemption as aforesaid, had been made, executed, and registered at the time of registering such affidavit.

Registration of affidavit to have the effect of a mortgage of the lands, &c. mentioned therein.

8. Where an affidavit shall be registered as aforesaid, every such conveyance and other act whatsoever, made or done, after the date of the judgment, decree, order, or rule mentioned in such affidavit, of and concerning any lands, tenements, or hereditaments mentioned in such affidavit, as under an Act of the Parliament of Ireland passed in the tenth year of King Charles the First, intituled "An Act against covenous and fraudulent conveyances," would be deemed void against purchasers for money or other good consideration, shall be void as against the creditor registering such affidavit, and the like remedies may be had in respect of such lands, tenements, and hereditaments as if such conveyance or other act had not been made or done: Provided always, that nothing herein contained shall in anywise

After registration of affidavit, conveyances, &c. after date of judgment, which would be void as against purchasers under 10 Cha. 1. (1) sess. 2. c. 3, shall be void as against creditor.

affect the provisions of the same Act concerning conveyances and other acts had or made to the intent to delay, hinder, or defraud creditors.

Registrar of deeds, upon lodgment under 11 & 12 Vict. c. 120. of certificate of satisfaction, &c. of judgment, &c. to enter memorandum thereof upon entries of affidavit registered under this Act.

9. Upon the lodgment in the said office for registering deeds, conveyances, and wills of such certificate of the entry of satisfaction upon the roll of any judgment, or of such certificate of any decree, rule, or order having been performed, complied with, or satisfied, as is mentioned in the said Act of the twelfth year of her Majesty, the registrar of the said office shall, where an affidavit has been registered under this Act in respect of such judgment, decree, rule, or order, cause a memorandum of satisfaction thereof to be subscribed to the several entries of such affidavit in the books kept at the said office, specifying the date at which satisfaction of such judgment appears by such certificate to have been entered on record, or, in the case of any such decree, rule, or order, specifying the date of the certificate: and upon every certificate of search made in the said office subsequently to the entry of such memorandum as aforesaid whereon such affidavit shall appear the entry of such memorandum shall be stated.

Execution against chattel interests not to be affected. 3 & 4 Vict. c. 105.

10. Provided always, that all such chattel interests in lands, tenements, or hereditaments as might have been taken in execution under any writ of fieri facias, if the Debtors (Ireland) Act, 1840, had not been passed, may be taken in execution and otherwise dealt with under any writ of fieri facias already issued or hereafter to be issued, anything in this Act contained notwithstanding.

Saving of rights of judgment creditor in administration actions.

11. In the administration in courts of equity of the assets of any person against whom any judgment, decree, order, or rule has been or shall be entered up, obtained, or made, either before or after the passing of this Act, who shall die seized of or entitled to any estate or interest in lands, tenements, or hereditaments, the creditor under such judgment, decree, order, or rule shall have the same rights upon and in respect of such lands, tenements, or hereditaments as if this Act had not been passed.

Judgments, &c. under 3 & 4 Vict. c. 105. not to operate as charges on interests in land vested in any persons as securities for money.

12. [*Recital of 3 & 4 Vict. c. 105. s. 22.*] No judgment, decree, order, or rule shall under the Debtors (Ireland) Act, 1840, operate or be deemed to have operated as a charge upon any estate, interest, or title in or to lands, tenements, or hereditaments vested in or subject to the power of disposition of any person against whom such judgment, decree, order, or rule is entered up, obtained, or made, where such estate, interest, or title is so vested or subject to such power as aforesaid, by way of mortgage or otherwise, as a security for the payment of any money, or consists of any judgment or lien, or any money thereby secured or recoverable, or any sum or sums of money,

(except rents and rent-charges,) charged upon or payable out of lands, tenements, or hereditaments:

[S. 13 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER XXXI.

AN ACT to authorize further Advances of Money for Drainage and the Improvement of Landed Property in the United Kingdom and to amend the Acts relating to such Advances.^[1]

[15th July 1850.]

[*Preamble recites* 9 & 10 *Vict. c.* 101; 10 & 11 *Vict. c.* 11; 11 & 12 *Vict. c.* 119; 10 & 11 *Vict. c.* 32; 12 & 13 *Vict. c.* 59.]

[S. 1 (*authorizing advances by Treasury for improvement of land*) *rep.* 54 & 55 *Vict. c.* 67. (S.L.R.)]

2. The money to be advanced under this Act for the purposes of loans for the improvement of landed property in Great Britain shall be applied for the purposes and under the provisions of the said firstly-recited Act, as amended by the said secondly and thirdly recited Acts and this Act, save so far as the same relate to lands in Ireland; and all the powers, authorities, provisions, matters, and things contained in the said firstly, secondly, and thirdly recited Acts, and applicable to loans out of the money authorized to be advanced for Great Britain under the said firstly-recited Act, shall extend to the loans to be made out of the money authorized to be advanced under this Act for the purposes of loans for the improvement of landed property in Great Britain.

The sums to be advanced for Great Britain to be applied to loans under 9 & 10 *Vict. c.* 101 and the Acts amending the same.

[S. 3 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

4. Where a provisional certificate has been or may be issued under the said firstly, secondly, and thirdly recited Acts, or any of them, or this Act, and no advance shall have been made in respect of the works to which such provisional certificate relates, or the whole of the sum in such provisional certificate expressed as the limit of the advance to be made under the same shall not have been issued, it shall be lawful for the Inclosure Commissioners for England and Wales, where they think fit, upon the application of the owner of the land to which such provisional certificate relates, by order under the seal of the said Inclosure Commissioners, to authorize the alteration or modification of any works to which such provisional certificate relates, or to authorize any other works in respect of which an advance might be made under the said Acts or this Act to be executed on the land to which such provisional certificate relates, or on any other

Where a provisional certificate has been issued, and no advance has been made, or the whole sum has not been advanced, the Inclosure Commissioners may authorize the alteration of any works, or the substitution of other works on the same lands, or other lands belonging to the same owner.

[¹ Short title, "The Public Money Drainage Act, 1850." See 55 & 56 *Vict. c.* 10.]

land of the same owner, in substitution, in whole or in part, for the works referred to in such provisional certificate, and all proceedings, advances, and acts shall and may be thenceforth had, made, and done upon such provisional certificate, as varied by such order, in the same manner as if the works altered or modified or substituted under such order had been originally authorized or referred to in such provisional certificate: Provided always, that the said commissioners shall not authorize the execution of works on land other than that to which the provisional certificate relates, in substitution as aforesaid for works mentioned in such certificate, until the like notice of the application shall have been given as is required by the said Acts in the case of an application for an advance; and the provisions of the said Acts concerning notice of such last-mentioned application, and concerning dissents and consents, and proceedings consequent upon dissent, shall be applicable where notice is required under this Act.

Loans to the same owner in Great Britain restricted to 5,000*l*.

5. [*Recital and repeal of so much of 10 & 11 Vict. c. 11, s. 7, as limits a provisional certificate to 10,000*l*.*] No provisional certificate shall be issued upon any application or applications by the same owner for a larger sum than five thousand pounds; or if any previous provisional certificate or certificates have been issued to such owner in respect of the same or any other land, or have been issued in respect of the same land to any previous owner thereof, no provisional certificate shall upon such application or applications be issued for any larger sum than will, with the sum which has been or may be issued under such previous certificate or certificates, make up five thousand pounds.

Provision for person under disability.
6 & 7 Will. 4.
c. 71.

6. When the owner of any lands in England or Wales, or the person who under the Tithe Act, 1836, would be deemed the owner of any lands in England or Wales, shall be a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustee, committee of the estate, husband, or attorney respectively, shall be substituted in the place of such owner or person deemed to be owner, for all the purposes of the said several herein-before recited Acts, and of this Act.

Construction of Act.

7. So much of this Act as amends the said firstly-recited Act shall be construed with such Act and the said secondly and thirdly-recited Acts as one Act.

Loans may be made under 10 & 11 Vict. c. 32 &c. for the erection of farm buildings in Ireland.

8. Out of any money authorized to be advanced for facilitating the improvement of landed property in Ireland, under the Landed Property Improvement (Ireland) Act, 1847, . . . loans may be made for the erection of farm buildings; and all the provisions of the Landed Property Improvement (Ireland) Act, 1847, . . . shall be construed in like manner as if the erection of farm buildings had been enumerated in such

last-mentioned Act of the tenth year of her Majesty among the purposes for which loans might be made under that Act.

[*Ss. 9-14 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XXXVI.

AN ACT to facilitate Procedure in the Court of Session in Scotland.^[1] [29th July 1850.]

[*Preamble recites 55 Geo. 3. c. 42. ; 59 Geo. 3. c. 35. ; 6 Geo. 4. c. 120. ; 11 Geo. 4. & 1 Will. 4. c. 69. ; 1 & 2 Vict. c. 118.*

[1.] The pursuer of any summons before the Court of Session shall set forth in such summons, in such way and manner as the court, having regard to the forms set forth in schedule (A.) hereunto annexed, may from time to time prescribe by act of sederunt as applicable to the various forms of action now in use, the name and designation of such pursuer, and the name and designation of the defender, and the conclusions of the action, without any statement whatever of the grounds of action ; but the allegations in fact which form the grounds of action shall be set forth in an articulate condescendence, together with a note of the pursuer's pleas in law, which condescendence and pleas in law shall be annexed to such summons, and shall be held to constitute part thereof ; and the defences to such summons shall be in the form of articulate answers to such condescendence, and, where necessary, appended thereto a statement of the allegations in fact on which the defender founds in defence, and also a note of the defender's pleas in law.

New forms of summons and defences before the Court of Session in Scotland.

[*Ss. 2-4 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

5. It shall not be necessary, in order to the closing of a record in any process before the Court of Session, that the record be authenticated by counsel as adjusted or closed, whether by minute of assent or otherwise, but such record shall be closed by interlocutor of the Lord Ordinary before whom the process depends ; . . .

Record to be closed by interlocutor of Lord Ordinary.

[*S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

7. Where in a process of reduction the defender is to object to the title of the pursuer, or to plead on an exclusive title, or to state any other objection against satisfying the production, he shall in the first instance lodge defences confined to these points, and the form of such defences, and the procedure thereon, shall be the same as in the case of peremptory defences in an ordinary action ; and if the defences so lodged shall be repelled, the

Dilatory defences in reductions, how to be disposed of.

[¹ Short title, " The Court of Session Act, 1850." See 55 & 56 Vict. c. 10.]

defender, after the production has been satisfied, shall give in defences applicable to the grounds of reduction and upon the merits of the reduction, and a record may be made up thereafter as in any ordinary action.

Production may be satisfied on box day.

8. In a process of reduction the production may be satisfied either during session or on any box day in vacation or recess.

[Ss. 9, 10 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*)]

Reclaiming days limited to ten, except for judgments on the merits, and decrees in absence.

11. It shall not be competent to reclaim against any interlocutor of the Lord Ordinary at any time after the expiration of ten days from the date of signing such interlocutor, with the exception only of reclaiming notes against interlocutors disposing in whole or in part of the merits of the cause, and against decrees in absence, which reclaiming notes shall continue to be competent in like manner as at the passing of this Act.

[*S.* 12 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*) *S.* 13 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*)]

Lord Ordinary not to order cases or minutes of debate or written arguments to be prepared.

14. It shall not be competent to the Lord Ordinary to direct cases or minutes of debate or other written argument to be prepared by the parties, whether for the use of himself or of the inner house; but it shall be competent for the Lord Ordinary at any time after hearing parties on a closed record to take such cause to report to the inner house without cases or minutes of debate.

[*S.* 15 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*)]

11 Geo. 4. & 1 Will. 4. c. 69. and this Act, to apply to actions of adherence and all other consistorial actions.

16. All the provisions of the Court of Session Act, 1830, and of this Act, applicable to actions of declarator of marriage and of nullity of marriage, and to actions of declarator of legitimacy and of bastardy, and to actions of divorce, and to actions of separation à mensâ et thoro, are and shall be applicable to actions of adherence, and all other consistorial actions, though not specially mentioned in the said recited Act.

Members of College of Justice not to institute actions not otherwise competent.

17. No member of the College of Justice shall, in respect of any privilege as such, be entitled to institute any action or proceeding, either original or by way of review, before the Court of Session, which could not have been instituted by him before such court if he had not been a member of the College of Justice.

Summons to bear date of signeting only.

18. . . . no summons passing the signet shall bear any date but the date of signeting, which shall be held to be the date of the summons.

Regulations as to multipointings.

19. In summonses of multipointing it shall be the duty of the party raising such action to state specifically in the body of the summons who is the real raiser of the action; and it shall be competent for any number of parties whose claims in such action depend upon the same ground to state such claims in the same paper.

20. Every execution of a summons, and every execution of intimation of a note of suspension, or of suspension and interdict, or of suspension and liberation, . . . shall be written at the end of the summons itself, or at the end of the usual certified copy of such note of suspension, or of suspension and interdict, or of suspension and liberation, . . . and, where necessary, on continuous sheets, but not on a separate paper; and such execution shall be in the form, or as nearly as may be in the form, of schedule (B.) hereunto annexed, which form shall be equally valid and effectual in all respects as the longer form of execution at present in use.

Forms of execution of summonses, &c.

[S. 21 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

22. . . . all edictal citations, charges, publications, citations, and services shall be done and performed by delivery of a copy thereof at the office of the keeper of edictal citations, according to the mode established by the Court of Session Act, 1825, in regard to persons furth of Scotland, and by an act of sederunt of the Court of Session dated the twenty-fourth day of December one thousand eight hundred and thirty-eight.

Edictal citations, &c. regulated.

6 Geo. 4. c. 120.

23. Where protestation shall be put up in the minute book of the Court of Session in reference to any summons, suspension, [or advocacy] and warrant is issued for extract thereof, if it be a protestation for not calling, such extract shall contain a decerniture for three pounds three shillings of protestation money, as expences in lieu of such sum of protestation money as would in that case be inserted in the extract according to the present practice; and if the protestation be for not enrolling, but after the calling and return of the summons or other initial writ, with or without defences or answers, as the case may require, the defender or respondent shall be entitled to his just expences as between party and party; and the auditor of court shall tax the account of these expences accordingly, as in the case of a decree in absence, on production to him of the protestation as given out for extract, or of a certificate by the keeper of the minute book that the same has been given out for extract; and the account so taxed shall be a sufficient warrant to the extractor to insert the taxed amount as the just expences, together with the expence of extract, in the extract protestation, in lieu of the sum at present inserted as expences in such extract: Provided always, that a pursuer may be reponed against a protestation for not calling at any time not later than ten days after the same has been given out for extract, whether extract shall have issued or not, by lodging with the clerk, in order to calling, his summons or other writ, with the relative documents, accompanied by the receipt of the agent for the defender for the said sum of three pounds three shillings of protestation money, or consigning the money itself in the hands

Protestations for not calling or for not enrolling regulated.

Defender entitled to expences.

Pursuer may be reponed.

of the clerk, for the use of the agent for the defender, and payable to him on demand; and that a pursuer may also be reponed, within the like period, against a protestation for not enrolling and insisting, by enrolling his summons or other writ in the outer house roll, and forthwith lodging that writ, with the enrolling clerk's certificate of enrolment annexed, in the hands of the clerk, as thenceforward a depending process, accompanied by the receipt of the agent for the defender for the taxed amount of the protestation money and expence of extract, or, in lieu thereof, consigning the money itself in the hands of the clerk for the use of such agent, and payable to him on demand: Provided also, that whenever a summons or other writ shall have been duly enrolled by the pursuer in the outer house roll, whether protestation shall have been put up or not, the same shall thenceforth become to all intents and purposes a depending process, under control of the Lord Ordinary and of the court, until finally disposed of by interlocutor.

[S. 24 *rep.* 54 & 55 *Vict. c.* 67. (S.L.R.)]

Copy of an interlocutor granting commission or diligence to be equivalent to a formal extract.

25. It shall not be necessary to obtain a formal extract of any commission or diligence granted or to be granted by a Lord Ordinary or the court in any process or proceeding before the Court of Session, but a copy of the interlocutor granting such commission and diligence, or one or other of them, certified by the clerk to such process or proceeding, or by his assistant, shall have the same force, operation, and effect as such formal extract according to the present practice.

Witnesses abroad may be examined in consistorial causes by commission.

26. Where in consistorial causes either party desires to examine witnesses furth of the kingdom, the depositions of such witnesses may be taken under a commission to be issued by the Lord Ordinary or the court to any commissioner whom they may appoint, in the same manner as in any proof upon commission in an ordinary action.

Diligences may be reported on box days.

27. In all cases it shall be competent to appoint a diligence to be reported on any box day in vacation or recess.

Interim decrees to be extractible without special allowance.

28. Every act and warrant and decree granted or to be granted during the dependence of a process before the Court of Session, and which according to the present practice might be extracted ad interim, if special allowance to that effect were granted by the Lord Ordinary or the court, shall be extractible ad interim without the necessity of such special allowance, unless the Lord Ordinary or the court shall otherwise direct.

Decree for expences to include expence of extract.

29. Every decree for expences shall be held to include a decree for the expence of extracting the same.

[S. 30 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.) S. 31 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

In suspensions, if record is closed in inferior court,

32. In all cases of suspension which shall come to depend before the Court of Session, where a record has been made up and closed and a proof led and concluded before the inferior

judge, the Lord Ordinary before whom such suspension is enrolled shall at the first calling of the cause, if a motion to that effect be made by either of the parties, appoint such record and proof, with any other papers which may be deemed to be necessary, to be printed and boxed for the judges of the inner house, and shall report the cause to the inner house, who shall thereupon proceed to dispose of it in the same way and manner as if it had been reported by the Lord Ordinary upon a closed record prepared in the Court of Session; and the party by whom such motion is made shall defray in the first instance the expence of such printing.

cause may be reported to the inner house without a judgment of the Lord Ordinary.

33. In every process of suspension of any charge or threatened charge, and in every process of suspension of a decree, and in every process of interdict where interdict has been granted in the bill chamber, and is unrecalled, it shall be lawful for the respondent in such process, so soon as the note of suspension, or note of suspension and interdict, is passed, and at any time not later than the twelfth day from the date of the interlocutor passing the same, or, in the case of a suspension of a decree, not later than the twelfth day from the date of the service of the note of suspension and interlocutor passing the same upon the respondent, to fix the Lord Ordinary and division of the Court of Session to which such process shall belong, and that by indorsation of the names of such Lord Ordinary and division on such passed note of suspension, or of suspension and interdict, signed by such respondent, or his counsel or agent in such process, unless where such note of suspension, or note of suspension and interdict has been passed on review by or on advising with either division of the court, in which case the process shall be fixed throughout with that division of the court, as at present; . . . and such passed notes of suspension, and of suspension and interdict, shall, during the period above mentioned, be always in the custody of the clerks of the bills, or of the clerk to the process, who shall not be entitled to lend up the same to, the parties or either of them, or to part with the custody thereof until such period has elapsed: Provided always, that, except in the cases herein-before specially provided for, the right to fix the Lord Ordinary and division of the court to which any process of suspension, or suspension and interdict, shall belong, shall remain as at the date of the passing of this Act.

Lord Ordinary and division of the court in suspensions, how to be fixed.

[S. 34 *rep.* 38 & 39 *Vict. c. 66. (S.L.R.)*]

35. It shall be competent to the judges of either division of the court in any cause in which they shall be equally divided in opinion to direct such cause to be judged by the inner house judges of both divisions, and to appoint such cause to be heard by such inner house judges, either on any sederunt day during session, or at any time during the sittings of the Lord Ordinary, either before or after the sittings of the two divisions of the court for the winter session; and such cause shall thereupon be

Judges of either division of inner house, if equally divided in opinion, may appoint the cause to be heard before themselves and three

judges of the
other division.

so heard and judged by the judges of the division of the court before which the same depends, with the addition of three judges of the other division of the court; and the judgment shall in all causes be pronounced according to the opinion of the majority of the judges present, and the interlocutor shall bear to be the judgment of the division before which the cause depends, after consulting with the other division of the court; but the Lord Justice General shall always be the presiding judge whenever his lordship sits as a member of the court.

Procedure in
jury causes to
be the same, so
far as is appli-
cable, as in
other Court of
Session causes.

36. In all causes appropriated for trial by the jury, or in the course of preparation for trial by jury, before the Court of Session, the procedure, both before and after the closing of the record, shall be in all respects the same, so far as applicable, as in other Court of Session causes for the time being, except in so far as it may be otherwise provided by this Act, or by any act of sederunt to be passed by the said court under the powers by this Act conferred.

Duties hitherto
performed by
issue clerk and
jury clerk
transferred
to clerks of
session.

37. . . . each clerk of session shall, so far as relates to all the causes appropriated or in the course of preparation for trial by jury in or connected with his own office, or depending before the Lord Ordinary or division of the court to which he is attached, be charged with all the duties hitherto performed by an issue clerk or jury clerk. . . .

[S. 38 (*as to adjustment and settlement of issues*) *rep.* 38 & 39 *Vict.* c. 66. (*S.L.R.*); *see* 30 & 31 *Vict.* c. 100. *s.* 27.]

Issues to be
approved by
interlocutor,
and signed by
judge.

39. It shall not be necessary to engross any issue or issues with a view to trial by jury, but such issue or issues, when adjusted and settled as aforesaid by the Lord Ordinary or the court, shall at the same time be approved by interlocutor to that effect, and shall be signed and authenticated by the judge as relative thereto, which proceeding shall be equivalent to engrossment as at present practised.

On issues being
approved of,
time and place
of trial to be
fixed.

40. Where an issue or issues is or are approved as aforesaid it shall be competent to the Lord Ordinary in the cause, on the motion of either of the parties, to appoint a time and place for the trial of such issue or issues, such time being as soon after the date of such approval as with reference to the proper trial of such issue or issues conveniently may be, and except upon special cause shown, not later than three weeks from the date of such motion; and such trial shall proceed at the time and place so appointed, unless at the time of such appointment one or other of the parties shall intimate to the Lord Ordinary that he objects thereto, in which case the Lord Ordinary shall report the matter to the court, by whom it shall be fixed when and where the trial shall proceed.

Lord Ordinary
in the cause to
preside at trial
of issues.

41. Unless where some different arrangement shall be made by the court, upon motion to that effect, the Lord Ordinary before whom the cause depends shall preside at the trial of such issue or issues in all cases where such trial shall take place during the sitting of the court.

42. All the powers and duties in regard to the summoning of Trials by jury. juries for the trial of issues in civil causes at present exercised or performed by the Court of Session, or by any division of the said court, or by any clerk or clerks in jury causes, may be competently exercised and performed by any Lord Ordinary, or by any clerk of session officiating either in the outer or inner house; and it shall be lawful for any Lord Ordinary, in any cause depending before the Court of Session, on the application of either of the parties, to appoint any issue or issues in such cause to be tried by a special jury.

43. A copy of the interlocutor fixing the trial, certified by the clerk to the process or by his assistant, shall be a sufficient warrant for citing witnesses. warrant to any messenger at arms to cite witnesses and havers to the said trial, either for the pursuer or defender.

44. In every trial of issues in a cause before the Court of Session, and subject to such regulations in regard to opening the case on the part of the pursuer and defender as the court may establish, one counsel for the pursuer and one counsel for the defender shall be heard, in their order, after the whole evidence In trial of issues, one counsel for each party to be heard after evidence closed. in the cause is closed.

45. A bill of exceptions shall not be allowed in any cause before the Court of Session, upon the ground of the undue admission of evidence, if in the opinion of the court the exclusion of such evidence could not have led to a different verdict than that actually pronounced; and it shall not be imperative on the court to sustain a bill of exceptions, on the ground of the undue rejection of documentary evidence, when it shall appear from the documents themselves that they ought not to have affected the result at which the jury by their verdict have arrived. Restriction on bills of exceptions on ground of undue admission or exclusion of evidence.

46. If the parties in any cause before the Court of Session in which an issue has been adjusted shall consent to the Lord Ordinary before whom such cause depends trying such issue without a jury, such Lord Ordinary shall, unless the court, on the report of such Lord Ordinary, shall deem it inexpedient and improper, try such issue without a jury accordingly; and whenever any issue shall be tried by a Lord Ordinary without a jury, such Lord Ordinary shall take notes of the evidence, and shall hear counsel thereon, and otherwise the proceedings shall be conducted continuously, and as nearly as may be as in an ordinary jury trial; and within eight days after the proceedings at the trial are concluded such Lord Ordinary shall pronounce an interlocutor, in which he shall state specifically what he finds in point of fact; and it shall be competent to either party, by written note, within eight days from its date, to bring such interlocutor of the Lord Ordinary under review of the Lord Ordinary upon his own notes of evidence, who shall forthwith hear parties thereon; and it shall be competent to the Lord Ordinary, upon such review, and within eight days after hearing Lord Ordinary, by consent, may try issues without a jury.

parties, either to correct his interlocutor as regards such findings in fact or to order a new trial, as he may think fit: Provided always, that if either of such periods of eight days extends into vacation or recess, such period shall not be held to elapse till the fourth day after the next meeting of the Lords Ordinary or the court thereafter.

47. Unless it shall appear that such findings in point of fact by such Lord Ordinary proceeded on some erroneous view of the law, as to competency of evidence or otherwise, such findings in fact shall be final; but it shall be competent to either of the parties to raise, on a reclaiming note to the inner house, any question of law which may be relevantly raised upon the evidence as appearing in the notes of such Lord Ordinary taken as aforesaid; and no objection to any finding in point of law by such Lord Ordinary during the proceedings at the trial shall be competent, unless such objection was stated, and noted by the Lord Ordinary, at the time of such finding; and the notes of the Lord Ordinary shall be referred to for no other purpose than to decide such questions of law: Provided always, that any appeal which may be entered to the House of Lords against any interlocutor which may be pronounced by the inner house on any such question of law shall be subject to the same regulations and entitled to the same privileges in all respects as appeals against interlocutors or judgments upon bills of exceptions are at present subject and entitled to.

Lord Ordinary's findings in fact shall be final, but questions of law may be raised by reclaiming note.

Proviso as to appeals to House of Lords against interlocutor of inner house on questions of law.

Lord Ordinary may, without adjusting issues, direct questions of fact to be tried by himself without a jury.

48. [*Recital.*] In any cause before the Court of Session it shall be competent to the Lord Ordinary before whom such cause depends, without adjusting an issue or issues, to pronounce an interlocutor, stating distinctly any such question or questions to which the parties are to address their proof, and appointing such question or questions for trial by himself, without a jury; and the proof to be adduced by the parties shall in such case be limited to the points so stated, and shall proceed at such time and place as shall be appointed, unless on review of such interlocutor it shall appear to the court that such course of procedure is not in the circumstances of the case expedient, or the interlocutor be otherwise altered by the court; and the Lord Ordinary shall find on each such question separately, and his findings on such questions shall be final, subject always to such review, correction, and objections as would have been competent thereagainst under this Act if the cause had been tried by such Lord Ordinary on issues.

Proof on commission in enumerated causes.

49. [*Provision as to evidence in causes not specially enumerated in 6 Geo. 4. c. 120. rep. 38 & 39 Vict. c. 66. (S.L.R.)*] It shall be competent for the court to allow proof on commission in any of such enumerated causes where the action is not an action for libel or for nuisance, or properly and in substance an action of damages

50. [*Recital.*] If the parties in any cause before the Court of Session in which an issue is to be tried shall consent to refer the same to any one arbiter, or to any three, five, or seven arbiters, it shall be lawful for the court or the Lord Ordinary, and the court or Lord Ordinary is hereby required, to allow such arbiter or arbiters to be sworn and to sit as a jury to try such issue; and such arbiter or arbiters, or the major part of their number in the event of difference of opinion, shall have all the powers of a unanimous jury; and the proceedings of such trial shall be conducted, as far as may be, as in any ordinary case of trial by jury, either party being entitled to take exceptions, and to move for a new trial, as in any ordinary case: Provided always, that it shall not be competent to either party to object to the verdict, or to move for new trial, in respect of the verdict being against evidence, or on any other ground implying miscarriage on the part of the jury alone: Provided also, that the court, in the event of granting a new trial, shall direct the new trial to proceed before the same arbiter or arbiters, if able to try the cause, and the new trial shall in that case proceed before the same arbiter or arbiters accordingly.

Trial by
arbiters.

51. Where by the provisions of this Act anything may be done upon report of a Lord Ordinary to one or other of the divisions of the court, the same may be done summarily, by a simple verbal report, to be made by such Lord Ordinary to such division.

Reports by
Lords Ordinary
may be verbal.

[*S. 52 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

53. In construing this Act the expression "clerk of session" shall include principal clerk of session, depute clerk of session, and assistant clerk of session, both in the inner and outer house; the word "pursuer" shall include complainer, and the word "defender" shall include respondent.

Interpretation.

54. The Court of Session shall be and the said court is hereby empowered, from time to time, to make such regulations, by act or acts of sederunt, as the said court may deem meet for carrying into effect the purposes of this Act; and the said court may meet for the above purposes during vacation as well as during session, and may alter and amend such regulations from time to time: Provided always, that within fourteen days from the commencement of every future session of Parliament there shall be transmitted to both Houses of Parliament copies of all acts of sederunt made and passed under the powers hereby given.

Regulations by
acts of sede-
runt.

[*S. 55 rep. 54 & 55 Vict. c. 67. (S.L.R.) S. 56 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 57 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

SCHEDULES to which this Act refers.

Sect. 1. SCHEDULE (A.)

No. 1.

FORM of an ordinary Petitory Summons.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to _____, messengers at arms, our sheriffs in that part, conjunctly and severally, specially constituted, greeting: Whereas it is humbly meant and shown to us by our lovite A., [insert name and designation], pursuer, against B., [insert name and designation], defender, in terms of the condescendence and note of pleas in law hereunto annexed: Therefore the defender ought and should be decerned and ordained, by decree of the lords of our council and session, to make payment to the pursuer of the sum of _____ sterling, [where any liquid document of debt is libelled on, whether bond, bill, or other document, as the case may be, set it forth here, as shortly as possible, describing it merely by its date, and the names of the parties by and to whom granted,] with the legal interest thereof from the _____ day of _____ until payment, together with the sum of _____ sterling, or such other sum as our said lords shall modify as the expences of the process to follow hereon, conform to the laws and daily practice of Scotland used and observed in the like cases, as is alleged: Our will is herefore, &c. [insert the will in common form, down to the words, "Given under our signet at Edinburgh," inclusive].

[To be signed on each page by a writer to the signet, and signeted in common form.]

Condescendence.

[State articulately the allegations in fact which form the ground of action.]

Note of Pleas in Law.

[State them articulately.]

In respect whereof, &c.

[To be signed on each page by the same writer to the signet who signs the above.]

No. 2.

FORM of a Summons of Count and Reckoning and Payment.

VICTORIA, &c. [as before]: Whereas, &c. [as before]: Therefore the defender ought and should be decerned and ordained, by decree of the lords of our council and session, to exhibit and produce before our said lords a full and particular account of his whole intromissions as factor for the pursuer, [or otherwise, as the case may be,] whereby the true balance due by him to the pursuer may appear and be ascertained by our said lords: And the defender ought and should be decerned and ordained, by decree foresaid, to make payment to the pursuer of the sum of _____ sterling, or of such other sum as shall appear and be ascertained by our said lords to be due by the defender as the balance of his said intromissions, with the legal interest thereof from the _____ day of _____ until payment; or, in the event of the defender failing to produce an account as aforesaid, he ought

and should be decerned and ordained, by decree foresaid, to make payment to the pursuer of the sum of sterling, which shall in that case be held to be the balance of his said intromissions, with the legal interest thereof from the said day of until payment; and, whether the said account is produced or not, the defender ought and should be decerned and ordained, by decree foresaid, to make payment to the pursuer of the sum of sterling, &c. [*insert conclusion for expences, as before*]: Our will is herefore, &c. [*insert the will in common form, as before.*]

[*To be signed and signeted as before.*]

No. 3.

FORM of a Summons of Declarator of Trust.

VICTORIA, &c. [*as before*]: Whereas, &c. [*as before*]: Therefore it ought and should be found and declared, by decree of the lords of our council and session, that a disposition dated , whereby, for the causes therein specified, the pursuer sold, alienated, and disposed to the defender, and his heirs and assignees whomsoever, heritably and irredeemably, all and whole the lands of , was a trust in the person of the defender, for the use and behoof of the pursuer and his heirs or assignees: And the defender ought and should be decerned and ordained, by decree foresaid, to denude of the said lands, and to convey the same, with the writs and evidents thereof, to the pursuer, and his heirs and assignees, with warrandice from the defender's own facts and deeds; [*insert conclusion for expences and will, as before.*]

[*To be signed and signeted as before.*]

No. 4.

FORM of a Summons of Reduction.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to , messengers at arms, our sheriffs in that part, conjunctly and severally, specially constituted, greeting: Our will is, &c. [*take in will of summons in common form, down to the statement of the reasons; then say*] for the reasons and causes set forth in the condescendence and note of pleas hereunto annexed: Therefore, and for other reasons to be proposed at discussing hereof, the said last will and testament [*or other document sought to be reduced, as the case may be,*] with all that has followed or may follow on the same, ought and should be reduced, retreated, rescinded, cassed, annulled, decerned, and declared, by decree of our said lords, to have been from the beginning, to be now and in all time coming, null and void, and of no avail, force, strength, or effect, in judgment or outwith the same in time coming, and the pursuer reposed and restored thereagainst in integrum: And the defender ought and should be decerned and ordained, by decree foresaid, to make payment to the pursuer of the sum of sterling [*insert conclusion for expences, as before*], or else to allege a reasonable cause in the contrary: With certification to the defender, if he fail, our said lords will proceed in the said matter, and reduce, decern,

and declare in manner foresaid : According to justice, &c. [*according to usual form, as before*].

[*To be signed and signeted as before.*]

No. 5.

FORM of a Summons of Multipointing.

VICTORIA, &c. [*as before*] : Whereas it is humbly meant and shown to us by our lovite *A.*, [*insert name and designation*], pursuer, against *B.*, [*insert name and designation*], common debtor, and *C*, *D.*, and *E.*, [*insert names and designations of each in order, and state who is the real raiser,*] creditors or pretended creditors of the said *B.*, all defenders, in terms of the condescendence and note of pleas in law hereunto annexed : Therefore it ought and should be found and declared, by decree of the lords of our council and session, that the pursuer is only liable in once and single payment of the principal sum of _____ sterling, contained in a bond dated _____, granted by him to the said *B.*, his heirs, executors, or assignees, and interest thereon from the _____ day of _____ until payment, or until consignation in this process, and that to the person or persons who may have just right thereto ; for determining which the said several persons, creditors or pretended creditors foresaid, and the said *B.*, common debtor, for his interest, and all others pretending right thereto, ought to produce their respective grounds of debt and diligences thereon, or other interest in the said sum, and dispute their preferences thereto : And the pursuer should be found entitled to retain the expences of this process as the same shall be ascertained in the course thereof, and decerned and ordained to make payment of what sum shall remain in his hands after such retention to such of the defenders or others as may be found to have best right thereto : And the defenders who shall be found to have no right to the sums in medio, and all others, ought and should be decerned and ordained, by decree foresaid, to desist and cease from further troubling the pursuer with respect to the premisses in time coming, conform to the laws and daily practice of Scotland used and observed in the like cases, as is alleged : Our will is herefore, &c. [*insert the will in common form, as before*].

[*To be signed and signeted as before.*]

Sect. 20.

SCHEDULE (B.)

THIS summons [*or note of suspension, or note of suspension and interdict, or note of suspension and liberation,*] executed [*or intimated*] by me [*insert name*], messenger at arms, against [*or to*] [*insert name or names*], defender, [*or defenders, or respondent or respondents,*] [*state whether personally or otherwise,*] in presence of [*insert name and designation of witness*], this _____ day of _____ eighteen hundred and _____ years.

C.D., witness.

[*Signature of messenger.*]

CHAPTER XXXIX.

AN ACT for the better Government of Convict Prisons.^[1]

[29th July 1850.]

[*Preamble recites* 1 & 2 *Vict. c. 82 (Parkhurst Prison)*; 5 & 6 *Vict. c. 29 (Pentonville Prison)*; 6 & 7 *Vict. c. 26 (Millbank Prison)*; 11 & 12 *Vict. c. 104 (Millbank Prison)*; 5 *Geo. 4. c. 84*; 9 & 10 *Vict. c. 26. s. 2.*]

[1.] It shall be lawful for one of her Majesty's Principal Secretaries of State to appoint not less than three fit persons to be directors of all the prisons of Parkhurst, Pentonville, . . . and of the places for the confinement of male offenders in England under sentence or order of transportation, and to appoint one of such persons to be the chairman of such directors, and from time to time to remove any of such persons so to be appointed, and to appoint another or others in his or their stead; and the persons so appointed, or any two of them, shall, during their appointment, have and perform all the powers and duties which under the said recited Acts are vested in or to be performed by the visitors of Parkhurst Prison, the commissioners for the government of Pentonville Prison, and the visitors of the Millbank Prison, respectively, with respect to such respective prisons, and shall also have and perform all such of the powers and duties heretofore vested in and to be performed by the said superintendent of convicts as by the said Act of the tenth year of her Majesty were transferred to the person or persons having the custody and management of such offenders as aforesaid under that Act; and all powers and duties which under the said recited Acts might be exercised and performed by one of the visitors of Parkhurst or the Millbank Prisons respectively, or by one of the commissioners for the government of Pentonville Prison, may be exercised and performed by one of the directors to be appointed under this Act; and all or any of the powers and duties of the said superintendent of convicts hereby transferred to such directors may be exercised and performed by any one of such directors; and all the provisions of the said recited Acts in relation to the visitors of Parkhurst Prison, the commissioners for the government of Pentonville Prison, and the visitors of the Millbank Prison, shall be applicable to the directors to be appointed under this Act; and all the provisions of the Transportation Act, 1824, with respect to the said superintendent of convicts, so far as the same have relation to the powers and duties of such superintendent intended to be by this Act transferred to such directors, shall from and after the appointment of such directors, be applicable to such directors, and under this Act be exercised and performed by any one of such directors.

Power to Secretary of State to appoint directors of Parkhurst and Pentonville Prisons, and of all places for confinement of male offenders in England under sentence of transportation.

5 Geo. 4. c. 84.

[¹ Short title, "The Convict Prisons Act, 1850." See 55 & 56 *Vict. c. 10*. This Act is rep. so far as relates to Millbank Prison, 55 *Vict. c. 1.*]

Directors
incorporated
by the name of
"the Directors
of Convict
Prisons."

2. The said directors to be appointed under this Act, and their successors, shall be a body corporate, by the name of "The Directors of Convict Prisons," and by that name shall have perpetual succession and a common seal, and may sue and be sued in all courts and before all justices and others.

[S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

5 & 6 Vict.
c. 29. s. 26.

Provisions of
Pentonville
Prison Act for
punishment of
officers for in-
troduction of
spirits, tobacco,
&c. extended
to all prisons,
&c. mentioned
in this Act.

4. And whereas in and by the Act secondly above recited, passed in the fifth year of the reign of her Majesty, intituled "An Act for establishing a prison at Pentonville," it was amongst other things enacted, "that every officer or servant of the Pentonville Prison who should bring or carry out, or endeavour to bring or carry out, or knowingly allow to be brought or carried out, to or for any such convict, any money, clothing, provisions, tobacco, letters, papers, or other articles whatsoever not allowed by the rules of the prison, should be liable to be punished as therein-after mentioned": And whereas it is expedient to make the said enactment applicable to all the prisons and places of confinement mentioned in this Act: Be it enacted, that so much of the said Act for establishing a prison at Pentonville as is above set forth and referred to shall be and the same is extended to the prisons of Parkhurst, . . . and to all the said places for the confinement of male offenders in England under sentence or order of transportation, and to the officers and servants employed therein; and all the powers given thereby to the commissioners of Pentonville in that behalf shall be exercised by the directors appointed under this Act in the said prisons of Pentonville . . . and Parkhurst, and the said places for the confinement of offenders under sentence or order of transportation.

[S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XLIII.

AN ACT to amend the Practice and Proceedings of the Court of Chancery of the County Palatine of Lancaster.^[1]

[29th July 1850.]

WHEREAS the Court of Chancery of the County Palatine of Lancaster is an ancient court, and has been found greatly beneficial to the inhabitants of the said County Palatine; and it is expedient, in order to extend the advantages of the said court, that certain alterations and improvements should be effected in the jurisdiction, practice, and proceedings thereof: And whereas the Queen's most excellent Majesty has been graciously pleased to sanction such alterations and improvements, notwithstanding that the same may affect her prerogatives and rights as Duchess of Lancaster, or may create a charge upon the revenues of the said duchy:

[¹ Short title, "The Court of Chancery of Lancaster Act, 1850." See 55 & 56 Vict. c. 10.]

[1.] It shall be lawful for the Chancellor of the Duchy and County Palatine . . . by any rules or orders to be by him from time to time made . . . to make such alterations as may seem to him expedient in the form of writs and commissions, and the mode of sealing, issuing, executing, and returning the same, and also in the form of and mode of filing bills, answers, depositions, affidavits, and other proceedings, and in the form or mode of obtaining discovery, by answer in writing or otherwise, and in the form or mode of pleading and of taking evidence, and generally of proceeding to obtain relief, in the Court of Chancery of the said County Palatine, and in the general practice of the Court, and also in the form and mode of proceeding before the registrar of the said court, and of drawing up and entering and enrolling orders and decrees, and of making and delivering copies of pleadings and other proceedings, and also to regulate the taxation, allowance, and payment of costs, and all other the business of the said court; and all such rules and orders shall be binding from such time as the said Chancellor . . . shall thereby direct, and shall have the same force and authority as if the same had been enacted by the authority of Parliament: Provided always, that all such rules and regulations shall be laid before both Houses of Parliament within five days from the issuing thereof, if Parliament be then sitting, or, if not, then within five days from the next meeting of Parliament: Provided also, that if either House of Parliament shall, by any resolution passed before such House shall have sat thirty-six days from and after the said orders and regulations shall have been laid before it, resolve that the same or any part thereof ought not to continue in force, then and in any such case the orders and regulations affected by such resolution shall cease to be binding on the said court; and no orders or regulations to be made in pursuance of this Act shall be of any effect unless expressed to be made in pursuance of the power given by this Act, nor shall the same continue in effect after the expiration of the time herein provided for laying the same before Parliament, unless they be laid before Parliament accordingly.

Power to the Chancellor of the Duchy of Lancaster to make alterations in forms and mode of proceedings in the Court of Chancery of the County Palatine.

2. Provided always, that whenever, by or under the authority of any Act of Parliament, passed or to be passed, or by any general order of the High Court of Chancery, any rules, orders, or regulations already have been or hereafter shall be made for the purpose of framing, regulating, or amending the proceedings, practice, or pleadings of the said High Court of Chancery, it shall be lawful for the Chancellor of the Duchy and County Palatine of Lancaster, with the consent and advice of the Vice Chancellor of the said County Palatine, and of such Vice Chancellor of the High Court of Chancery as aforesaid, by rules or orders to be made in that behalf, to adopt all or any of such rules, orders, or regulations, or any part or parts thereof, with such variations therein or additions thereto as may be necessary or proper for adapting the same to the business and mode of

Power to adopt and modify any rules and orders made or to be made for the High Court of Chancery.

proceeding of the Court of Chancery of the County Palatine; and such last-mentioned rules and orders, if expressed to be made in pursuance of the authority of this Act, shall be valid and binding from the making and issuing thereof, or such other time as shall be therein mentioned.

Saving of power of the Chancellor and Vice-Chancellor to alter the practice of the court.

3. Provided always, that nothing herein contained shall extend to take away or abridge the power heretofore possessed by the Chancellor of the Duchy and County Palatine of Lancaster and the Vice Chancellor of the said County Palatine, or either of them, of settling, altering, and amending the practice and course of the proceeding in the said court of the County Palatine, but such power shall, notwithstanding anything herein contained, continue and have the same force and effect as if this Act had not been passed, save and except so far as the exercise of such power may in any respect be repugnant to or inconsistent with the provisions herein contained, and save also that neither the said Chancellor nor Vice Chancellor alone shall alter or vary any order made by the said Chancellor with such advice and consent as aforesaid.

Regulation of fees.

4. The Chancellor of the Duchy and County Palatine of Lancaster for the time being, by and with the advice and consent of the Vice Chancellor of the said County Palatine for the time, shall have full power and authority, by any general orders to be from time to time made after this Act shall take effect, to make such regulations as to the fees to be paid by suitors, or to be charged by or allowed to all or any of the officers of the said County Palatine, and by or to the solicitors thereof, as to him may seem expedient, and to alter the same, with such advice and consent as aforesaid, when and as he may think fit.

List of fees authorized to be taken to be hung up in registrar's office.

5. A table of all fees for the time being authorized by the said Chancellor and Vice Chancellor of the said County Palatine to be taken by any officer of the said County Palatine Court, or by any solicitor practising in the said court, for business done therein, shall be hung up in some conspicuous place in the office of the registrar of the said court; and if any officer of the court shall, for anything done or pretended to be done relating to his office or employment, or under colour of doing anything relating to his office or employment, wilfully demand or receive, or allow any person to receive for him or on his account, any fee, gratuity, or emolument, or anything of value, other than what shall be allowed to be taken by him as aforesaid, the person so offending shall be deemed guilty of a contempt of court, and shall be punishable, according to the discretion of the said court, as for a contempt.

Registrar to hear and determine certain interlocutory matters.

6. The registrar of the said County Palatine Court shall hear and determine all applications for time to plead, answer, or demur, and for leave to amend bills, and for enlarging publication, and all such other matters relating to the conduct of suits and proceedings in the said court as the Chancellor of the Duchy and County Palatine of Lancaster, with the advice and consent

of the Vice Chancellor of the said County Palatine, shall by any general orders from time to time direct, in such manner and subject to such regulations as by such general orders shall be directed.

7. It shall be lawful for either party to appeal, by motion, from the order made by the registrar on such applications as aforesaid, to the Vice Chancellor of the said County Palatine, and the order made on such appeal shall be final and conclusive; and no such application directed to be heard and determined by the registrar as aforesaid shall in future be heard by the Chancellor of the Duchy and County Palatine aforesaid, nor shall any such application be heard by the Vice Chancellor of the said County Palatine, except on appeal as herein-before provided.

Appeal to Vice Chancellor.

8. It shall be lawful for the said registrar, on all applications made to him by virtue of this Act, to direct that the costs of all or any of the parties shall be costs in the cause or matter, or to award such liquidated sum by way of costs to any of the parties as he shall think reasonable, and the costs so to be awarded shall be recoverable in like manner as costs directed to be paid by an order of the said County Palatine Court.

Costs on applications to the registrar.

9. In every case where an infant or person of unsound mind, not found to be a lunatic by any inquisition, shall be named as defendant in any suit in the said County Palatine Court, it shall be lawful for the registrar of the said court to assign a guardian to such defendant, for the purpose of putting in the answer and defending such suit, and to make and sign his certificate thereof.

Guardians ad litem of infants and persons of unsound mind.

10. If any person shall be desirous of obtaining the opinion of the court on the construction of a deed, will, or other instrument, or on any other matter in dispute over which the court may have jurisdiction, by virtue of this Act or otherwise, it shall be lawful for such persons to present a petition to the court, stating the facts of the case, the draft of which shall be signed by counsel, and the name of such counsel shall appear on the petition, as signing the same on behalf of the parties thereto; and the court on hearing such petition may make such declaration of rights in respect of the subject matter thereof as to the court shall seem proper, and such declaration shall be binding on all persons in the same manner and to the same extent, and subject to appeal in the same manner, as a decree made on the hearing of a cause in which any one or more of the parties to the petition could be plaintiffs and the other parties or party defendants, and in which the facts stated in the petition had been proved: Provided always, that in case any infant, lunatic, or person of unsound mind, or any married woman in respect of her real estate, or of any reversionary interest in personal estate, shall be interested in the matter of such petition, he or she shall not be made a party thereto unless and until the case to be stated in such petition shall have been submitted to the registrar,

Special cases may be submitted to the court for its opinion, by petition.

and shall be certified by him to be correctly stated as to the facts, and to be a proper case to be submitted to the court on the behalf of the party under such disability as aforesaid; and the registrar, before granting such certificate, shall require such facts to be verified by affidavit, and shall also require the assent to such case of the husband of any married woman, and of the committee of any lunatic, and of the guardian ad litem of any infant or person of unsound mind, which guardian may be appointed in the same manner as in the case of a party defendant to a suit.

Power to
exercise same
jurisdiction on
petitions, &c.
as High Court.

11. When under or by virtue of any Act of Parliament already made and passed or which may hereafter be made and passed, or by any orders or regulations made in pursuance thereof, application is authorized or allowed to be made by petition on motion or otherwise to the High Court of Chancery or any judge of the said court, and summary jurisdiction to be exercised thereon, (unless in any Act of Parliament to be hereafter passed the contrary be expressly enacted,) it shall be lawful for the Court of Chancery of the said County Palatine, so far only as regards all persons and property within its jurisdiction, to exercise the like summary jurisdiction, and in the same manner, and subject to the same restrictions, in all respects, as the said High Court of Chancery or any judge thereof might exercise in the like matters.

Money, &c.
authorized to
be paid, &c.
into court
under
8 & 9 Vict.
c. 18., &c. or
under
10 & 11 Vict.
c. 96., may, as
respects lands
in the County
Palatine, or in
case of persons
liable to be sued
in the County
Palatine Court,
be paid into
the Bank of
England.

12. All monies payable in respect of lands situate within the said County Palatine, and which are authorized to be paid into or deposited in the Bank of England, to the account of the Accountant General of the High Court of Chancery, under and by virtue of the Lands Clauses Consolidation Act, 1845, or any local or special Act passed or to be passed incorporating the provisions of the said last-mentioned Act, or otherwise authorizing the taking or using of lands situate in the said County Palatine, and also all monies or securities held by any party who might be sued in the Court of Chancery of the said County Palatine in respect thereof, and which under and by virtue of an Act made and passed in the Parliament held in the tenth and eleventh years of the reign of her present Majesty, intituled "An Act for better securing trust funds, and for the relief of trustees," might be in like manner paid or transferred into or deposited in the Bank of England, to the account of the said Accountant General, may be in like manner paid or transferred into or deposited in the Bank of England, to the joint account of the clerk of the council of the Duchy of Lancaster and of the registrar and comptroller of the said County Palatine Court, in the matter in respect whereof such payment, transfer, or deposit shall be made, and the receipt of one of the cashiers of the said Bank shall be a full discharge to the person paying or transferring or depositing the same; and such monies and securities, and all costs of application in respect

thereof, shall be dealt with by the said Court of Chancery of the County Palatine in the same manner as the same might be dealt with by the High Court of Chancery or by the Lord High Chancellor, or any of the judges of the said High Court, if such monies or securities had been paid or transferred into or deposited in the Bank of England to the credit of the Accountant General of that court; and the lands in respect of which such payment, transfer, or deposit shall be made may be dealt with in the same manner as if it had been made in manner prescribed by the Lands Clauses Consolidation Act: Provided always, that no monies shall be so paid or deposited under or by virtue of the Lands Clauses Consolidation Act, 1845, or any local or special Act as aforesaid, in case the party who would have been entitled to the rents and profits of the lands in respect of which such monies shall be payable, or his or her guardian or committee in case of infancy or lunacy, shall at any time before such payment or deposit serve or cause to be served a notice in writing at the office of the company taking the lands, requesting them not to make the payment or deposit.

13. In all matters over which the said court of the said County Palatine may have jurisdiction it shall be lawful for the Vice Chancellor for the time being of the said County Palatine, when out of the limits of the jurisdiction of the said court, to hear and determine all pleas, demurrers, exceptions, applications for injunctions, both upon notice and *ex parte*, for dissolving injunctions, for the appointment of receivers, for the payment of money into and out of court, or for confirming reports, and all motions, petitions, and other matters for facilitating the progress of any suit or business pending in the said court which he might lawfully hear and determine within the limits of the jurisdiction thereof; and all orders made by him upon the hearing of any pleas, demurrers, exceptions, and applications as aforesaid shall be as valid and binding upon the parties as if the same had been made within the limits of the jurisdiction of the said court.

Power to Vice-Chancellor, when out of the limits of the jurisdiction of the court, to hear and determine pleas, demurrers, and other interlocutory matters.

14. In all cases where any person who shall have commenced any suit or other proceeding, or entered an appearance in any suit or proceeding, in the said court of the County Palatine, or shall have come in as a creditor, claimant, or purchaser, or otherwise submitted to the jurisdiction of the said court, cannot, by reason either of his person or goods being out of such jurisdiction, be made amenable to the process of such court, and also in all cases where any such person as aforesaid shall have died, or become bankrupt or insolvent, and his real or personal representatives, or the assignees of his estate and effects, (as the case may be,) or any of them, who may be necessary parties to the continuance of the said suit or proceeding, shall be out of the jurisdiction of the said court, it shall be lawful for the Vice Chancellor of the said County Palatine, upon special application

Power to Vice-Chancellor, in certain cases, to direct process to be served upon persons out of the jurisdiction of the court.

being made to him, whether within or without the said county, by any party to or person interested in such suit or proceeding, founded upon an affidavit verifying the facts of the case, to order and direct that service of any order, notice, subpoena, letter missive, or other process shall be made and be deemed good service upon any such person, real or personal representative, or assignee as aforesaid at any place within the United Kingdom of Great Britain and Ireland or the Isle of Man, upon such terms and in such manner as to the said Vice Chancellor shall seem reasonable and proper, and afterwards, if it shall be necessary, upon an affidavit of such service had, to order an appearance to be entered for the person so served; and thereupon it shall be lawful for the said County Palatine Court to make such decree or order consequent upon such service so made as aforesaid as before the passing of this Act, or under the provisions of this Act, might have been made in case such service as aforesaid had been duly made within the jurisdiction of the said court.

Where decree or order of County Palatine Court cannot be enforced by reason of the party to be bound thereby not being within the jurisdiction, it may be made a decree or order of the High Court of Chancery, and enforced accordingly.

15. Whenever a plaintiff or defendant in any suit or proceeding in which a decree or order shall have been made by the said County Palatine Court shall reside or withdraw his person or goods out of the jurisdiction of the said court, and also whenever any decree or order of the same court cannot be fully enforced by reason of the nonresidence of any party to be bound thereby within the jurisdiction of the said court, then and in every such case it shall be lawful for Her Majesty's High Court of Chancery, upon the application of any person entitled to the benefit of such decree or order, and upon the production of a transcript of such decree or order, or such part thereof respectively as cannot be enforced for the reasons aforesaid, under the signature of the registrar of the said County Palatine Court, and an affidavit that by reason of such nonresidence or removal as aforesaid such decree or order, or such part thereof as aforesaid, cannot be enforced, to make such decree or order, or so much thereof respectively as cannot be enforced for any of the reasons aforesaid, a decree or order of the said High Court of Chancery, and thereupon such decree or order, or such part thereof respectively as aforesaid, shall and may be enforced against such of the parties bound by the same as shall be within the jurisdiction of the said High Court of Chancery, and all proceedings shall and may be had thereupon, as if such decree or order had been originally made by the said High Court of Chancery, and all the reasonable costs and charges of and consequent upon such application shall and may be recovered in like manner as if the same were part of such decree or order.

Limitation of time for presenting petition of appeal.

16. No petition of rehearing by way of appeal from any decree or order made by the Vice Chancellor for the time being of the said County Palatine shall be presented but within the space of six calendar months from the time of making the same, unless the Chancellor of the said Duchy and County Palatine,

upon special application being made to him for that purpose, and after hearing counsel upon the merits of the case, shall otherwise direct: Provided nevertheless, that the Vice Chancellor of the said County Palatine shall, at his own discretion, be at liberty to hear petitions for rehearing, and also to rehear any matters previously decided by him in the court of the said County Palatine; but any order made on such rehearing shall be deemed an original order, with reference to the right to appeal therefrom.

17. The service of every writ of subpoena to attend and give evidence, or subpoena duces tecum, hereafter to be issued out of the said County Palatine Court, and served upon any person out of the jurisdiction thereof, shall be as valid and effectual for compelling the attendance of such person at any time and place to be named in such writ of subpoena, to be there examined, either before the registrar of the said court, as well in his capacity of examiner as in that of master of the said court, or before commissioners under any commission to be issued by the said court for the examination of witnesses, or to be examined *viva voce* at the hearing of any matter or suit before the said court or before the registrar, or for compelling the attendance of such person by virtue of any writ of subpoena duces tecum, and shall entitle the party suing out the same to all the like remedies, by action and otherwise, as if the same had been served within the jurisdiction of the said court; and in case the person so served shall not attend according to the exigency of such writ, it shall be lawful for the said County Palatine Court, upon affidavit of the personal service of such writ, to transmit a certificate of such default, under the hand of the registrar of the said court, to the Court of Queen's Bench in England, to the Court of Justiciary in Scotland, or to the Court of Queen's Bench in Ireland; and the said last-mentioned courts respectively shall and may thereupon proceed against and punish, by attachment or otherwise, according to the course and practice of the said respective courts, the person so having made default in such and the like manner as they might have done if such person had refused or neglected to appear in obedience to a writ of subpoena or other process issued to compel the attendance of witnesses out of such last-mentioned courts respectively.

Service of
subpœna on
witnesses out
of jurisdiction.

18. Provided always that the said last-mentioned courts respectively shall not in any case proceed against or punish any person, nor shall any such person be liable to any action, for having made default by not appearing in obedience to any writ of subpoena or writ of subpoena duces tecum or other process for that purpose issued under the authority of this Act, unless it be made to appear to such courts respectively that a reasonable and sufficient sum of money to defray the expences of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time

Persons not
liable for not
attending, un-
less expences
be tendered
on service of
subpœna.

when such writ of subpoena or writ of subpoena duces tecum or other process was served upon him.

Affidavits
sworn before
commissioners
of Court of
Duchy Cham-
ber of Lancas-
ter, by persons
out of juris-
diction.

19. It shall be lawful for any commissioner for taking affidavits to be made use of in causes, matters, and things depending in the Court of the Duchy Chamber of Lancaster at Westminster, . . . to administer an oath to or take the affirmation (where allowed by law) of any person out of the jurisdiction of the said County Palatine Court who shall be desirous of making an affidavit to be used in any suit or matter pending before such last-mentioned court; and every such affidavit so sworn or affirmed as aforesaid shall be as valid and effectual for all the purposes for which the same shall be required as if the same had been sworn or affirmed before the proper officer of the said County Palatine Court within the jurisdiction of the court; and every person wilfully forswearing himself or making false affirmation in such affidavit, and being lawfully convicted thereof, shall be liable to the penalties of wilful and corrupt perjury.

Appointment
of a messenger
of the court.

20. It shall be lawful for the Chancellor of the Duchy and County Palatine of Lancaster for the time being to appoint a fit and proper person, resident within the County Palatine of Lancaster, to be and to be called "The Messenger of the Court of Chancery of the County Palatine of Lancaster," to attend upon the said County Palatine Court, and to execute the process thereof; and from time to time, upon the death, resignation, or removal of any such person, to appoint a successor to the said office; and the person so appointed as aforesaid shall hold his office during the pleasure of the said Chancellor, and may be removed in a summary manner, and may and shall receive such fees for executing the process of the said court as the said Chancellor and the Vice-Chancellor of the said County Palatine shall from time to time, by any general order to be made in pursuance of the provisions herein after contained, authorize and direct.

Detention
of persons
arrested in
Lancaster
Castle.

21. The gaoler or keeper for the time being of her Majesty's gaol at Lancaster called Lancaster Castle is hereby authorized and required to receive into his custody in such gaol every person arrested and conveyed thither by such messenger as aforesaid by virtue of any writ, warrant, or other process issuing out of the said County Palatine Court, and to produce and deal with such person as the said court shall from time to time direct; and every such person as aforesaid shall be maintained and provided for in the same manner as if he had been arrested and brought to such gaol by virtue of any writ, warrant, order, or other process issued out of . . . any of the superior courts of law or equity at Westminster, or committed for contempt of any of the said last-mentioned courts; and all the expences of maintaining and providing for every person so arrested or committed to the said gaol

as aforesaid shall be defrayed out of such portion of the county rate of the said County Palatine as for the time being shall be applicable to the support of the debtors confined in the said gaol.

[*Ss. 22, 23 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

24. [*Recital of 1 & 2 Vict. c. 110, and amending Acts, 2 & 3 Vict. c. 11; 3 & 4 Vict. c. 82.*] All the remedies, authorities, and provisions of the recited Act, so amended so aforesaid, and of the said Acts amending the same, applicable to her Majesty's superior courts of common law at Westminster, and the judgments and proceedings therein, do extend and are applicable to the Court of Chancery of the County Palatine of Lancaster within the limits of the jurisdiction thereof, and shall have the same effect in all respects as the judgments of any of her Majesty's said superior courts at Westminster under and by virtue of the said recited Act, amended as aforesaid; and all powers and authorities thereby given to the judges or any judge of her Majesty's superior courts at Westminster, with respect to matters depending in the same courts, shall and may be exercised by the Chancellor of the said Duchy or Vice Chancellor of the said Court of the County Palatine, with respect to matters therein depending and within the jurisdiction thereof: Provided always, that no decree or order of the said last-mentioned court shall by virtue of the said recited Act or this Act affect any lands, tenements, or hereditaments, as to purchasers, mortgagees, or creditors, unless and until a memorandum or minute, containing the name, and the usual or the last known place of abode, and the title, trade, or profession, of the person whose estate is intended to be affected thereby, and the name of the court, and the title of the cause or matter in which such decree or order shall have been made, and the date of such decree or order, and the amount of the sum of money, costs, charges, or expences thereby made payable, shall be left with the prothonotary or deputy prothonotary of her Majesty's Court of Common Pleas at Lancaster, or some other officer to be appointed for that purpose by the said court, who shall forthwith enter the same particulars in a book in alphabetical order, by the name of the person whose estate is to be affected thereby; and such officer shall be entitled for every such entry to the sum of two shillings and sixpence; and all persons shall be at liberty to search the same book, on payment of the sum of one shilling.

Provisions of
1 & 2 Vict.
c. 110.,
2 & 3 Vict.
c. 11., and
3 & 4 Vict.
c. 82., appli-
cable to
judgments
in superior
courts of
common law,
to apply to
County Pala-
tine Court.

[*Ss. 25, 26 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

27. . . . every solicitor desirous of practising in the Court of Chancery of the said County Palatine shall enter or cause to be entered his name and address with the registrar of the said court; and, until all compensation to be awarded to the clerks in court or any of them shall have been paid and satisfied, such sum, not exceeding five pounds, as the Chancellor of the said Duchy and County Palatine shall, by any general order to be

Solicitors, &c.
desirous of
practising in
the Palatine
Court to enter
their names,
&c. with the
registrar,

inserted in the table of fees, from time to time direct, shall be paid by or on behalf of every such solicitor to the registrar, before his name shall be entered with the said registrar; and the monies so paid shall be paid by the registrar into court to an account to be entitled the "Fee Fund Account;" . . .

[S. 28 *rep.* 54 & 55 *Vict. c.* 67. (*S.L.R.*)]

Salary of
registrar.

29. . . . there shall be paid and payable out of the said fee fund, or if the same be not sufficient for that purpose, then by the receiver general for the time being of the Duchy of Lancaster out of the revenues of the said Duchy, as and for the salary to the registrar for the time being of the said court of the County Palatine, such annual sum as the Chancellor for the time being of the said Duchy and County Palatine shall from time to time, by warrant under his hand, authorize and direct; and such salary shall grow due from day to day, but shall be payable on such days as the said Chancellor shall by such warrant as aforesaid direct, and shall be paid to the person entitled thereto, or his executors or administrators, free from all deductions out of the same, except the tax on income; and all payments made out of the revenues of the said Duchy shall be repaid out of the said fee fund.

Account of fees
and expences.

30. . . . the said registrar for the time being shall once in every year, or oftener if required by the Chancellor of the said Duchy, on such day as shall be appointed for that purpose by the Vice Chancellor of the said County Palatine, make out a full and true account of all fees received by him by virtue of his appointment during the preceding year, or subsequent to his last account, and shall have such account audited by the Vice Chancellor, who is hereby required to audit the same, and, if found correct, to allow the same by putting his signature thereto and to a duplicate copy thereof; and in such account and audit there may and shall be charged and allowed such sums of money as to the said Vice Chancellor shall seem reasonable for the rent, taxes, and cleaning of the offices where the business of the County Palatine Court is transacted, for providing the said offices with coals, candles, and other necessary articles, and for the books and stationery supplied by such registrar for carrying on the business of the said offices, and for salaries of clerks, expences of journeys, postages, and carriage of parcels, and all other incidental and necessary expences.

Duplicate of
account to be
transmitted to
auditor of
Duchy.

31. The said registrar shall within ten days after every such account shall be so audited as aforesaid transmit the duplicate copy of such account, signed by the Vice Chancellor as before directed, to the auditor for the time being of the Duchy of Lancaster.

Registrar to
pay the fees to
the fee fund
account, and to
give security

32. The said registrar shall from time to time, when he shall transmit the duplicate copy of the said account of fees to the auditor for the time being of the said Duchy of Lancaster, as before directed, at the same time pay into court to the "Fee

Fund Account" the total amount of fees which by such account shall appear to be due from the said registrar; and the said Chancellor of the Duchy and County Palatine of Lancaster in such case may and is hereby authorized and empowered to take from the registrar for the time being of the said County Palatine Court such security, by bond, recognizance, or otherwise, as to the said Chancellor shall seem fit, binding such registrar, together with one or more sufficient surety or sureties, in such penal sum or penal sums as to the said Chancellor shall seem meet, for the due accounting for all fees and for all sums of money which shall be received by such registrar, by virtue of his appointment, or under any order of the said County Palatine Court, respectively, in any matter or suit pending in the said court.

to account for
all fees and
suitors' money
received by
him.

33. It shall be lawful for the said Chancellor of the Duchy and County Palatine of Lancaster, . . . from time to time to appoint, by writing under his hand, such competent persons as he shall think fit to act either as district or as deputy registrars of the said Court of Chancery of the said County Palatine during the pleasure of the Chancellor for the time being of the said Duchy and County Palatine, and to assign to any district registrar a district; and such district registrars within their districts, and such deputy registrars, shall and may have and exercise all such powers and authorities in respect of any matters referred to them by the said court by any general or special order as might be exercised by the registrar; and the fees, or salary payable out of fees, payable to every such district or deputy registrar shall be such as the Chancellor of the said Duchy and County Palatine, with the advice and consent of the Vice Chancellor of the County Palatine, shall direct, and shall be included in the table of fees hereby directed to be kept; and the acts of such district or deputy registrars in respect of all matters referred to them by the said court shall be as valid and effectual, and subject to revision in the same manner, as if they were performed by the registrar of the court.

Appointment
of district
or deputy
registrars.

34. Provided always, that it shall not be lawful for any registrar, district or deputy registrar, of the said court, during the time he shall hold and exercise the office of registrar, district or deputy registrar, of the said court, either directly or indirectly, by himself, his partner, clerk, or other person, to practise in the said Court of Chancery of the County Palatine, either as solicitor originally retained for any party in any matter pending in the said court, or as agent for any other solicitor practising in the said court, nor participate in any fees payable to any solicitor so practising; and that any registrar, district or deputy registrar, being proved to the satisfaction of the said court for the time being to have so practised, or to have participated in any fees as aforesaid, contrary to the meaning and intent of this Act, shall be deemed to have committed a contempt of court, and shall be liable to dismissal from his office, or to the payment

Registrar and
district or
deputy regis-
trars not to
practise as
solicitors in
the court.

of such fine, or liable to such other punishment, as to the said court for the time being shall seem fit.

Jurisdiction
as to costs.

Appeal.

Interpretation
of terms.

35. In all proceedings under and by virtue of this Act there shall be the same jurisdiction as to costs vested in the said court of the County Palatine as such court could exercise in any other cause or matter; and the orders of the said court made in pursuance of this Act shall be subject to appeal in the same manner in all respects as any other orders of the court.

36. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) "the said County Palatine Court" shall mean the Court of Chancery of the County Palatine of Lancaster; words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender only shall include females as well as males; and words importing individuals shall include bodies corporate.

[S. 37 *rep.* 54 & 55 *Vict. c.* 67. (S.L.R.) S. 38 *rep.* 37 & 38 *Vict. c.* 66. (S.L.R.)]

CHAPTER LVII.

AN ACT to prevent the holding of Vestry or other Meetings in Churches, and for regulating the Appointment of Vestry Clerks.^[1]
[5th August 1850.]

[*Preamble.*]

Application
of Act to
parishes
where popula-
tion exceeds
2,000.

[1.] It shall be lawful for the Commissioners for Administering the Laws for Relief of the Poor in England, at any time or times, upon application in writing of the churchwardens, or, where there are no churchwardens, of the overseers, of any parish in England the population whereof exceeds two thousand persons according to the then last preceding census, such application being made pursuant to a resolution of the vestry of such parish, to make an order under their seal of office that this Act or any part thereof shall be applied to and be put in force within such parish; and a copy of such order shall be published in such newspaper or gazette, or both, as the said commissioners may direct, and shall be deposited with the churchwardens or overseers (where there are no churchwardens) of any such parish.

Where Act
applied, no
parish meet-
ings to be held
in the parish

2. From and after the expiration of twelve calendar months from the making and publishing of any such order no meeting of the inhabitants of the parish for the purpose of holding a vestry, or for any other purpose than that of divine worship, or

[¹ Short title, "The Vestries Act, 1850." See 55 & 56 *Vict. c.* 10.]

some ecclesiastical or charitable object, or some other purpose approved by the bishop of the diocese, shall be holden in any parish church or chapel, or other consecrated church or chapel, nor in the chancel thereof, nor, except in case of urgency, and with the previous approval of the said commissioners, in the vestry room attached to such church or chapel, in any parish or place named in such order, any public or private Act of Parliament to the contrary notwithstanding.

church or
vestry room.

3. Where any vestry or other meeting, by virtue of any statute, law, or custom, has heretofore been holden in the church or chapel of any parish or place named in any such order as aforesaid, or in the vestry room of such church or chapel, any such vestry or other meeting shall from and after the making and publishing of such order be holden in such other room or place within the parish or place as shall be provided for the holding thereof in pursuance of the provisions of this Act; and all acts done in such other room or place as aforesaid shall be as good, valid, and effectual in the law, to all intents and purposes whatsoever, as if such vestry meeting had been held in the vestry room of such church or chapel, or in the body of such church or chapel as aforesaid.

Meetings to be
held in places
provided under
this Act.

4. The churchwardens and overseers, or overseers alone, as the case may require, of any parish, with the sanction of the said commissioners and of a majority of the vestry, may by agreement hire any room, or purchase or take upon lease or exchange any lands or buildings, or sell lands belonging to such parish, and invest the proceeds of such sale in the purchase of other lands and buildings, or erect suitable buildings, for the purpose of holding of any vestry and other meeting for the transaction of any business of or relating to the parish; and the Lands Clauses Consolidation Act, 1845, except the parts and enactments of that Act with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the recovery of forfeitures, penalties, and costs, and with respect to lands acquired by the promoters of the undertaking, but which shall not be wanted for the purpose thereof, shall, in so far as the same is consistent with this Act, be incorporated with this Act; and for the purposes of this Act the expressions "the promoters of the undertaking," or "the secretary," whenever used in that Act, shall respectively mean the churchwardens and overseers, or overseers as aforesaid; and the expression "tolls or rates," whenever used in the said first-mentioned Act, shall mean monies to be raised for the relief of the poor mentioned in this Act; and all lands and premises which shall be so purchased or taken on lease by the churchwardens and overseers, or overseers as aforesaid, of any parish shall be conveyed, demised, and assured to such churchwardens and overseers, or overseers alone as aforesaid, and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate, and the yearly rent reserved by any lease shall be chargeable upon and paid out of the monies to be raised for

Hire or purchase of lands, &c., and erection of buildings, for vestry or parish meetings.

8 & 9 Vict.
c. 18.

the relief of the poor of any such parish, and shall be paid by the churchwardens and overseers, or overseers as aforesaid, of such parish, as such rent becomes payable; and if at any time any such rent be not paid within thirty days after it so becomes payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the said churchwardens and overseers, or overseers as aforesaid, with costs of suit, by action of debt in any court of law, or may levy the same by distress of the goods and chattels of any of the said churchwardens and overseers, or overseers as aforesaid.

Power to borrow money required for the purposes of this Act on the security of the poor rates.

5. It shall be lawful for the Poor Law Commissioners, by an order under their hands and seal, upon the receipt of a copy, under the hands of the said churchwardens, or, where there are no churchwardens, of the overseers of any parish, of a resolution passed at a vestry duly convened and held for the purpose, after public notice of the time and place and purpose of holding such vestry shall have been given in like manner as notices of vestry meetings are published and given, consenting to the issue of such order, to direct the churchwardens and overseers, or, where there are no churchwardens, the overseers, and such churchwardens and overseers, as the case may be, are hereby required, if so directed by such order and resolution as aforesaid, to borrow any sum of money which may be required for the purposes of this Act, and to charge the poor rates of the said parish with the repayment of the sum borrowed for such purpose and the interest thereof, so nevertheless that the sum so borrowed shall be repaid by equal annual instalments not exceeding ten.

Election of vestry clerks.

6.^[1] And whereas in parishes whereof the population exceeds two thousand persons as aforesaid various duties are by law imposed upon and required to be performed by the officers of parishes, and much business is transacted at vestry meetings, and the parish officers and vestries require the assistance of a vestry clerk in respect of such duties and business; and it is expedient that provision should be made for regulating the appointment and for the payment of such vestry clerks: Be it therefore enacted, that the churchwardens or other persons to whom it belongs to convene meetings of the vestry in any such parish shall, within the space of one calendar month from and after the making and publishing of any order of the commissioners so applied for, if such order extend to the appointment of vestry clerk as aforesaid, and also, in case of any subsequent vacancy in the office of vestry clerk, within one calendar month next after such vacancy, convene a meeting of the vestry of any parish named in such order, for the special purpose of electing a vestry clerk, to perform such of the duties herein-after mentioned as shall be applicable to such parish, in addition to those which are or may be imposed upon vestry clerks by any Act or

[¹ Ss. 6-9 rep. 56 & 57 Vict. c. 73. s. 89, so far as they relate to parish meetings under that Act.]

Acts of Parliament; and public notice of such vestry, and the place of holding the same, and the special purpose thereof, shall be given in the usual manner in which notice of the meetings of the vestry is now given, at least seven days before the day to be appointed for holding such vestry; and at such meeting the vestry shall proceed to elect some fit and competent person to be vestry clerk, and the person so elected shall not be removable from office except by a resolution passed at a vestry to be called for that special purpose in the manner herein-before mentioned, and with the consent of the said Commissioners for Administering the Laws for the Relief of the Poor in England, or by an order under the seal of the said commissioners.

7.[¹] It shall be the duty of such vestry clerk, unless otherwise directed by the Poor Law Commissioners, Duties of vestry clerks.

To give notice of and attend the meetings of vestry and committees appointed thereat :

To summon and attend meetings of the churchwardens and overseers, when required, and to enter the minutes thereof respectively :

To keep the account of all charity monies which the churchwardens or overseers are authorized or are accustomed to distribute :

To keep the vestry books, and the parish deeds and documents, and the rate books and accounts which are closed, and to give copies of and extracts from the same to any person entitled thereto, such person paying for the same at the rate of fourpence for every seventy-two words or figures, and to permit any person or persons rated to the relief of the poor of the said parish, at all reasonable times, to inspect the same or any of them, on pain of dismissal for neglecting to give such copies or permit such inspection :

To make out, when required by the vestry, the church rate, and procure the same to be signed and completed, and to retain the custody thereof, and, where there is no collector of poor rates or assistant overseer, to make out the poor rate, and procure the same to be allowed, and to make all the subsequent entries in the rate books, and to give the notices thereof required by law :

To prepare and issue the necessary process for recovering of arrears of such rates respectively before the justices, and procure the summons to be served, and to attend the justices thereon, and advise the churchwardens and overseers as to the recovery of such arrears :

To keep and make out the accounts of the churchwardens, and to present such accounts to the vestry or other legal authority to be passed, and to examine the church rate collectors accounts and returns of arrears

To assist the overseers in making out their accounts (whenever required by them,) and, subject to the rules and regulations

[¹ See note to s. 6.]

of the Commissioners for Administering the Laws for the Relief of the Poor, to examine from time to time the accounts of the assistant overseers or collectors of poor rates, and their returns of arrears :

To attend the audit of accounts of the overseers, and conduct all correspondence arising therefrom :

To assist the churchwardens or overseers in preparing and making out all other parochial assessments and accounts, and in examining the accounts of the collectors of such assessments :

To ascertain and make out the list of persons liable to serve on juries, and to cause them to be printed and duly published, and returned to the justices :

To give the notices for claims to vote for members of Parliament, and to make out lists of voters, and get the same printed and published, and duly returned, according to law, and to attend the court for revising them, and to prepare, make out, and publish the burgess lists and the lists of constables :

To make all returns required of the churchwardens or of the overseers by law or proper authority :

To advise the churchwardens and overseers in all the duties of their office ; and also to perform such other duties and services of a like nature as the said Commissioners for Administering the Laws for the Relief of the Poor in England, from time to time, at the request of the churchwardens or overseers of any such parish, or otherwise, shall prescribe and direct to be performed by such vestry clerk :

Salary of vestry clerk.

8.[¹] The amount of salary or other remuneration to be paid to the vestry clerk, as well as the days and times on which and the persons by whom the same shall be payable, shall be fixed by the said commissioners, and altered from time to time as there shall be occasion ; and such salary or remuneration shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of any such parish ; and, where the said commissioners shall deem requisite, such vestry clerk shall give such security and to such persons as the said commissioners shall by their order under seal direct : Provided always, that where, under the provisions of any local Act or Acts of Parliament, any person or persons shall be paid for the performance of any of the duties of vestry clerk, or for assisting in the performance of any of the duties of churchwardens or overseers of the poor, nothing herein contained respecting the duties of the vestry clerk shall apply to or be deemed to apply to the performance of such duties while the same are so performed, or while payment shall be made for the performance of them as aforesaid.

Vestry clerk may be required to give security.

This Act not to apply where other provision is made for the performance of the duties of vestry clerk.

Saving as to duties of churchwardens and overseers.

9.[¹] Nothing herein contained shall exempt or discharge, or be construed to exempt or discharge, any churchwarden or overseer

[¹ See note to s. 6.]

of the poor from the performance of any duty required of him by law, nor oblige him to avail himself of the assistance of any vestry clerk to be appointed as aforesaid in the performance of his duties, unless he shall think fit so to do.

10. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) "parish" shall mean every place having separate overseers of the poor and maintaining its own poor, and also every parish or place having a separate ecclesiastical jurisdiction, and in which a vestry shall have been heretofore constituted and held for parochial as well as ecclesiastical purposes, either separately or jointly with any other parish; "churchwarden" shall mean also chapelwardens or other persons discharging the duties of churchwardens in any parish or place as last aforesaid; "vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry . . . elected under the Vestries Act, 1831, or elected under the provisions of any local Act of Parliament for the government of any parish by vestries, or under or by virtue of any prescriptive custom or otherwise, in which parishes it shall mean select vestry; "lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure; words importing the masculine gender shall include the feminine; words of the plural number shall include the singular; words of the singular number shall include the plural.

Interpretation
of terms.

1 & 2 Will. 4.
c.

[S. 11 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER LIX.

AN ACT for the better Government of Her Majesty's Australian Colonies.^[1] [5th August 1850.]

[*Preamble recites* 5 & 6 *Vict. c.* 76; 7 & 8 *Vict. c.* 74; 9 *Geo. 4. c.* 83, and other Acts now repealed, as to the Australian Colonies.

[1.] . . . the territories now comprised within the district of Port Phillip, including the town of Melbourne, and bounded on the north and north-east by a straight line drawn from Cape How to the nearest source of the river Murray, and thence by the course of that river to the eastern boundary of the colony of South Australia, shall be separated from the colony of New South Wales, and shall cease to return members to the legislative council of such colony, and shall be erected into and thenceforth

Constitution
of colony of
Victoria.

[¹ This Act is *rep.* 18 & 19 *Vict. c.* 54. s. 2 (New South Wales); 18 & 19 *Vict. c.* 55. s. 2 (Victoria); 53 & 54 *Vict. c.* 26. s. 2 (Western Australia); as to so much and such parts as relate to those colonies respectively, and are repugnant to the Bills scheduled to those Acts.]

form a separate colony, to be known and designated as the colony of Victoria.

[*Ss. 2, 3, rep. as to New South Wales, 18 & 19 Vict. c. 54 s. 2: as to Victoria, 56 & 57 Vict. c. 54. (S.L.R.) S. 4 rep. 18 & 19 Vict. c. 54. s. 2. S. 2 provided for writs for first election of members of the legislative council of Victoria being issued by the Governor of New South Wales.*]

Cessation of authority of governor of New South Wales in Victoria

5. Upon the issuing of such writs for the first election of members of the legislative council of the said colony of Victoria such colony shall be deemed to be established, and the legislative authority of the governor and council of New South Wales, and the powers of such governor, over and in respect of the territories comprised in the said colony of Victoria and the revenues thereof, shall cease.

Acts to remain applicable to New South Wales after separation of Victoria.

6. Subject to the provisions herein contained, the provisions of the said firstly-recited Act of the sixth year of the reign of her Majesty, as explained and amended by the said Acts of the eighth year of her Majesty, shall remain applicable to the said colony of New South Wales after such separation as aforesaid, and to the governor and legislative council thereof.

[*Ss. 7-10 rep. 56 & 57 Vict. c. 54. (S.L.R.)*]

Power for legislative councils to alter electoral districts, and number of members of councils, &c.

11. It shall be lawful . . . for the governors and legislative councils of the said colonies of . . . Van Diemen's Land, South Australia . . . respectively, . . . from time to time by any Act or Acts to establish new electoral districts in any parts of the said colonies respectively, and to alter the divisions and extent of the electoral districts of the said colonies, and to alter and appoint the number of members of council to be chosen by the said districts, and to increase the whole number of members of such legislative councils respectively, and to alter and regulate the appointment of returning officers, and make provision in such manner as they may deem expedient for the issue and return of writs for the election of members to serve in such legislative councils respectively, and the time and place for holding such elections: Provided always, that where the whole number of members of council shall be increased, such number of the additional councillors as is equal to one third part of the whole increase, or, if such whole increase shall not be exactly divisible by three, such number as is next greater than one third of the whole increase, shall be appointed by her Majesty, and the remaining additional members of council shall be elected by the inhabitants of the colony.

Certain provisions of this Act and 5 & 6 Vict. c. 76. and 7 & 8 Vict. c. 74., as to New South Wales, to apply

12. All the provisions herein contained concerning the qualification and disqualification of electors in New South Wales, and, subject to the provisions herein contained, all the provisions of the said firstly-recited Act of the sixth year of the reign of her Majesty, as explained and amended by the said secondly-recited Act of the eighth year of her Majesty, concerning . . . the proposal of drafts of laws and amendments to such council; the

giving and withholding of her Majesty's assent to Bills, and the reservation of Bills for the signification of her Majesty's pleasure thereon, and the Bills so reserved; the instructions to be conveyed to the governor for his guidance in relation to the matters aforesaid; and the disallowance of Bills by Her Majesty, shall apply to and be in force in the colony of Victoria, and in each of the said colonies of Van Diemen's Land, South Australia, and Western Australia, in which a legislative council shall be established under this Act, as if all such provisions were here repeated, the name of such respective colony being substituted for the name of the colony of New South Wales.

to Victoria,
Van Diemen's
Land, South
Australia, and
Western
Australia.

[S. 13, 16, 21, 22, *rep.* 56 & 57 *Vict. c.* 54. (*S.L.R.*) Ss. 14, 15, 17-20, *rep. as to New South Wales*, 18 & 19 *Vict. c.* 54. s. 2; *as to Victoria, Tasmania, South Australia, and Western Australia*, 56 & 57 *Vict. c.* 54. (*S.L.R.*) S. 23 *rep.* 18 & 19 *Vict. c.* 54. s. 2. S. 24. *rep. as to New South Wales*, 18 & 19 *Vict. c.* 54. s. 2; *as to Victoria*, 18 & 19 *Vict. c.* 55. s. 2; *as to Western Australia*, 53 & 54 *Vict. c.* 26. s. 2; *as to Van Diemen's Land*, by *Tasmanian Act*, 16 *Vict. No.* 17; and *as to South Australia*, by *Act No.* 10 of 1858.]

25. All laws and ordinances made under the provisions hereby repealed or otherwise, and which shall be in force in the territories comprised in the said colony of Victoria, and in the said colonies of Van Diemen's Land, South Australia, and Western Australia respectively, at the time of the issue of the writs for the first election of legislative councils in the said colonies respectively under this Act, so far as the same are consistent with the provision of this Act, shall continue in force in the said colonies respectively, subject, as to such laws or ordinances as would then have remained subject to be disallowed by her Majesty, to the authority of her Majesty to disallow the same within the time within which such disallowance might have been signified in case this Act had not been passed, and subject to the power of the governors and legislative councils of the said respective colonies, in the manner and subject to the rules and restrictions herein prescribed, to repeal or vary such laws or ordinances; and where under any law which shall be in force at the time aforesaid in the territories to be comprised in the colony of Victoria any powers are vested in or may be delegated to the governor of New South Wales, the same, so far as respects all territories to be comprised within the colony of Victoria, and so far as the same are consistent with the provisions of this Act, shall thenceforth be vested in and may be delegated to the governor of the said colony of Victoria.

Existing laws,
&c. so far as
consistent with
this Act, to
remain in force,
subject to
power of
repeal, &c.

[S. 26 *rep.* 56 & 57 *Vict. c.* 54. (*S.L.R.*)]

27. Subject to the provisions of this Act, and notwithstanding any Act or Acts of Parliament now in force to the contrary, it shall be lawful . . . for the respective governors and legislative councils of the colonies of . . . Van Diemen's Land, South Australia, . . . to impose and levy such duties

Customs duties
may be im-
posed on any
goods.

Similar articles to be subject to the same duties, wherever produced.

Establishment of supreme court in Victoria.

9 Geo. 4. c. 83.

of customs as to such respective governors and councils may seem fit on the importation into such respective colonies of any goods, wares, and merchandize whatsoever, whether the produce or manufacture of or imported from the United Kingdom, or any of the colonies or dependencies of the United Kingdom, or any foreign country: Provided always, that no new duty shall be so imposed upon the importation into any of the said colonies of any article the produce or manufacture of or imported from any particular country or place, which shall not be equally imposed on the importation into the same colony of the like article the produce or manufacture of or imported from all other countries and places whatsoever.

28. [*Recital.*] It shall be lawful for her Majesty, by letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland, to erect and appoint a court of judicature in the said colony of Victoria, which shall be styled "The Supreme Court of the Colony of Victoria"; and such court shall be holden by one or more judge or judges, and shall have such ministerial and other officers as shall be necessary for the administration of justice in the said court, and for the execution of the judgments, decrees, orders, and process thereof; and all the provisions of the Australian Courts Act, 1828, concerning the appointment and removal of judges and officers of the supreme court of New South Wales, and judges for appointing persons to act in the place and stead of being absent, resigning, dying, or becoming incapable to act, and concerning appeals to her Majesty in council from judgments, decrees, orders, or sentences of such court, shall apply to the said supreme court to be erected in the said colony of Victoria, but so that the powers of the governor of New South Wales in relation to the matters aforesaid shall be vested in the governor of the colony of Victoria; and from such time as shall be mentioned in such letters patent all the authorities, powers, and jurisdiction of the supreme court of New South Wales, and of any judge thereof, over or to be exercised within or in relation to the said colony of Victoria, including all admiralty jurisdiction exercisable within the limits thereof, shall cease to be had and exercised by such last-mentioned supreme court and judge respectively, and shall thenceforth be vested in and exerciseable by the supreme court erected by such letters patent; provided that in the meantime the said authorities, powers, and jurisdiction of the said supreme court of New South Wales and of the judges thereof within and in respect of the said colony of Victoria shall remain as if this Act had not been passed, unless or until the same shall be varied by Act of the governor and council of the said colony of Victoria.

Legislatures of New South Wales, Van Diemen's Land,

29. It shall be lawful for the governors and councils of the said colonies of New South Wales, Van Diemen's Land, and Victoria respectively, from time to time, by any Act or Acts, to

make such provision as to them may seem meet for the better administration of justice, and for defining the constitution of the courts of law and equity and of juries, within the said colonies respectively, or within any present or future dependencies thereof respectively, anything in the Australian Courts Act, 1828, or in this Act, or in any charter of justice or order in council made or issued in pursuance thereof respectively, or in any law, statute, or usage, to the contrary thereof notwithstanding.

and Victoria empowered to make further provisions for the administration of justice.
9 Geo. 4. c. 83.

30. In case at any time hereafter the legislative councils of the said colonies of New South Wales and Victoria, or the legislative council of one of the said colonies, shall petition her Majesty to alter the boundaries of the said colonies of New South Wales and Victoria, so as to transfer to one of such colonies a portion of the territories which, after the separation authorized by this Act, shall be comprised in the other of them, it shall be lawful for her Majesty, if she shall think fit, by any order to be made with the advice of her Privy Council to alter such boundaries in pursuance of the prayer of such petitions or petition, or in such varied manner as her Majesty with such advice shall think fit: Provided always, that unless the councils of both the said colonies shall petition for an alteration of such boundaries, notice of the petition, and of the intention of her Majesty to order the same to be taken into consideration by her Privy Council, shall be given in such manner as her Majesty shall direct to the legislative council which shall not have petitioned, six months at least before such petition shall be so considered.

Boundaries of New South Wales and Victoria may be altered by order in council.

31. Provided also, that it shall not be lawful for the legislatures of any of the said colonies to levy any duty upon articles imported for the supply of her Majesty's land or sea forces, nor to levy any duty, impose any prohibition or restriction, or grant any exemption, bounty, drawback, or other privilege, upon the importation or exportation of any articles, nor to impose any dues or charges upon shipping, contrary to or at variance with any treaty or treaties concluded by her Majesty with any foreign power.

Duties not to be levied on supplies for troops; nor any duties, &c. inconsistent with treaties between her Majesty and foreign powers.

32. Notwithstanding anything herein-before contained, it shall be lawful for the governors and legislative councils of the said colonies of Van Diemen's Land, South Australia, . . . respectively, from time to time, by any Act or Acts, to alter the provisions or laws for the time being in force, under this Act or otherwise, concerning the election of the elective members of such legislative councils respectively, the qualification of electors and elective members, or to establish in the said colonies respectively, instead of the legislative council, a council and a house of representatives, or other separate legislative houses, to consist respectively of such members, to be appointed or elected respectively by such persons, and in such manner

Power to governors and councils, with assent of her Majesty in council, to alter the constitution of the legislative councils, or to establish instead thereof councils and houses of representatives.

Bills for such purposes to be reserved, and laid before Parliament.

as by such Act or Acts shall be determined, and to vest in such council and house of representatives or other separate legislative houses the powers and functions of the legislative council for which the same may be substituted: Provided always, that every Bill which shall be passed by the council in any of the said colonies for any of such purposes shall be reserved for the signification of her Majesty's pleasure thereon; and a copy of such bill shall be laid before both Houses of Parliament for the space of thirty days at the least before her Majesty's pleasure thereon shall be signified.

Reservation of bills for signification of her Majesty's pleasure.

33. Provided always, that the provisions of the said firstly-recited Act of the sixth year of the reign of her Majesty, as explained and amended by the said secondly-recited Act of the eighth year of the reign of her Majesty, concerning Bills reserved for the signification of her Majesty's pleasure thereon, shall be applicable to every Bill so reserved under the provisions of this Act.

5 & 6 Vict.
c. 76. s. 51.

34. And whereas by the said firstly-recited Act of the sixth year of the reign of her Majesty power is reserved to her Majesty by letters patent to be from time to time issued under the Great Seal of Great Britain and Ireland to define the limits of the said colony of New South Wales, and to erect into a separate colony or colonies any territories which then were or were reputed to be or thereafter might be comprised within the said colony of New South Wales; provided that no part of the territories lying southward of the twenty-sixth degree of south latitude in the said colony of New South Wales should by any such letters patent as aforesaid be detached from the said colony: And whereas it is expedient that the power reserved to her Majesty as aforesaid should be extended over certain parts of the said territories lying southward of the twenty-sixth degree of south latitude, upon the application of the inhabitants thereof: Be it enacted, that it shall be lawful for her Majesty from time to time, upon the petition of the inhabitant householders of any such of the territories in the said recited proviso mentioned as lie northward of the thirtieth degree of south latitude, to detach such territories from the colony of New South Wales, and to erect such territories into a separate colony or colonies, or to include the same in any colony or colonies to be established under the powers of the last-mentioned Act; and all the powers and provisions of the last-mentioned Act in respect to any new colony or colonies to be established under such Act shall extend to any new colony or colonies to be established under this enactment.

Upon petition of inhabitants, territories lying northward of thirtieth degree of south latitude may be detached from New South Wales.

Legislative councils may be established in the newly erected colonies.

35. Provided always, that it shall be lawful for the legislature which may be constituted according to the provisions of the last-mentioned Act in any colony established under such Act, or under the enactment herein-before contained, by any ordinance or ordinances to be made for that purpose, subject to the

conditions and restrictions to which ordinances to be made by such legislature may by law be subject, to establish a legislative council within such colony, to consist of such number of members as they shall think fit; and such number of the members of such council as is equal to one third part of the whole number of members of such council, or, if such number be not exactly divisible by three, one third of the next greater number which is divisible by three, shall be appointed by her Majesty, and the remaining members of the council shall be elected by the inhabitants of such colony; and it shall be lawful for such legislature, by such law or ordinance as aforesaid, to make all necessary provisions for dividing such colony into convenient electoral districts, and for appointing and declaring the number of members of council to be elected for each such district, and for the compilation and revision of lists of all persons qualified to vote at the elections to be holden within such districts, and for the appointing of returning officers, and for the issuing, executing, and returning of the necessary writs for such elections, and for taking the poll thereat, and for determining the validity of all disputed returns, and otherwise ensuring the orderly, effective, and impartial conduct of such elections; and upon the establishment in such colony of a legislative council under this provision, all the provisions of this Act, and of the said firstly recited Act of the sixth year of her Majesty, and of the said secondly-recited Act of the eighth year of her Majesty, which are hereby made applicable to the colony of Western Australia after the establishment under this Act of a legislative council therein, shall become applicable to the colony in which a legislative council is established under this provision, as if all such provisions were here repeated and applied to every such colony.

Appointment and election of members.

Provision to be made for division of colonies into electoral districts, and for conduct of elections, &c.

36. By the term "governor" of the colonies mentioned in this Act, as used in this Act, shall be understood the persons for the time being lawfully administering the government of such colonies respectively; . . .

Interpretation of "Governor."

37. This Act shall be proclaimed in New South Wales, Van Diemen's Land, South Australia, and Western Australia, by the respective governors thereof, within six weeks after a copy of such Act shall have been received by such governors respectively, and save as herein expressly provided, shall take effect within such colonies respectively from the day of such proclamation thereof.

Commencement.

[S. 38 rep. 41 & 42 Vict. c. 79. (S.L.R.)]

[Schedules rep. as to New South Wales, 18 & 19 Vict. c. 54. s. 2.; as to Victoria, Tasmania, and S. Australia, 56 & 57 Vict. c. 54. (S.L.R.)]

CHAPTER LX.

AN ACT to consolidate and amend the Laws relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees.^[1] [5th August 1850.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Interpretation
of terms.

2. [*Recital.*] The several words herein-after named are herein used and applied in the manner following respectively ; (that is to say,)

The word "lands" shall extend to and include manors, messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein :

The word "stock" shall mean any fund, annuity, or security, transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein :

The word "seised" shall be applicable to any vested estate for life or of a greater description, and shall extend to estates at law and in equity, in possession or in futurity, in any lands :

The word "possessed" shall be applicable to any vested estate less than a life estate, at law or in equity, in possession or in expectancy, in any lands :

The words "contingent right" as applied to lands, shall mean a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent :

The words "convey" and "conveyance," applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another lands whereof such person is seised or entitled to a contingent right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of the Fines and Recoveries Act, 1833 . . .

3 & 4 Will. 4.
c. 74.

[¹ Short title, "The Trustee Act, 1850." See s. 58.]

The words "assign" and "assignment" shall mean the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring lands of which such person is possessed, either for the whole estate of the person so possessed, or for any less estate :

The word "transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock can transfer such stock from himself to another :

The words "Lord Chancellor" shall mean as well the Lord Chancellor of Ireland as any Keeper or Lords Commissioners of the Great Seal of Ireland for the time being :

The word "trust" shall not mean the duties incident to an estate conveyed by way of mortgage ; but, with this exception, the words "trust" and "trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of personal representative of a deceased person :

The word "lunatic" shall mean any person who shall have been found to be a lunatic upon a commission of inquiry in the nature of a writ de lunatico inquirendo :

The expression "person of unsound mind" shall mean any person, not an infant, who, not having been found to be a lunatic, shall be incapable, from infirmity of mind, to manage his own affairs :

.

The word "mortgage" shall be applicable to every estate, interest, or property, in lands or personal estate, which would in a court of equity be deemed merely a security for money :

The word "person" used and referred to in the masculine gender shall include a female as well as a male, and shall include a body corporate :

And generally, unless the contrary shall appear from the context, every word importing the singular number only shall extend to several persons or things, and every word importing the plural number shall apply to one person or thing, and every word importing the masculine gender only shall extend to a female.

3. When any lunatic or person of unsound mind shall be seised or possessed of any lands upon any trust or by way of mortgage, it shall be lawful for the Lord Chancellor, intrusted by virtue of the Queen's sign manual with the care of the

Lord Chan-
cellor may
by order
convey estates
of lunatic

trustees and mortgagees in lands.

Lord Chancellor may by order release or convey contingent rights of lunatic trustees and mortgagees in lands.

Lord Chancellor may make orders as to rights to transfer stock or sue for choses in action of lunatic trustees and mortgagees.

Power to vest right to transfer stock, &c. of deceased person, where personal representative is a lunatic.

Power to appoint a person to convey or assign lands,

persons and estates of lunatics, to make an order that such lands be vested in such person or persons, in such manner, and for such estate, as he shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

4. When any lunatic or person of unsound mind shall be entitled to any contingent right in any lands upon any trust or by way of mortgage, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said Lord Chancellor shall direct: and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

5. When any lunatic or person of unsound mind shall be solely entitled to any stock or to any chose in action upon any trust or by way of mortgage, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to make an order vesting in any person or persons the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof; and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or chose in action upon any trust or by way of mortgage, it shall be lawful for the said Lord Chancellor to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said Lord Chancellor may appoint.

6. When any stock shall be standing in the name of any deceased person whose personal representative is a lunatic or person of unsound mind, or when any chose in action shall be vested in any lunatic or person of unsound mind as the personal representative of a deceased person, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, in any person or persons he may appoint.

[*Ss. 7-19 rep. 56 & 57 Vict. c. 53. s. 51.*]

20. In every case where the Lord Chancellor, intrusted as aforesaid, shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance or assignment of any lands, or having the effect of a

release or disposition of the contingent right of any person or persons, . . . it shall also be lawful for the Lord Chancellor, intrusted as aforesaid, . . . should it be deemed more convenient, to make an order appointing a person to convey or assign such lands, or release or dispose of such contingent right; and the conveyance or assignment, or release or disposition, of the person so appointed shall, when in conformity with the terms of the order by which he is appointed, have the same effect in conveying or assigning the lands, or releasing or disposing of the contingent right, as an order of the Lord Chancellor, intrusted as aforesaid, . . . would in the particular case have had under the provisions of this Act; and in every case where the Lord Chancellor, intrusted as aforesaid, . . . shall, under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of the Bank of England, or of any other company or society established or to be established, it shall also be lawful for the Lord Chancellor, intrusted as aforesaid, . . . if it be deemed more convenient, to make an order directing the secretary, deputy secretary, or accountant general for the time being of the Bank of England, or any officer of such other company or society, at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to the Bank of England, and all other companies or societies, and their officers and servants, for all acts done or permitted to be done pursuant thereto.

or release contingent rights,

or to make an order on secretary of Bank of England, &c., to transfer stock.

[*Ss. 21-25 rep. 56 & 57 Vict. c. 53. s. 51.*]

26. Where any order shall have been made under any of the provisions of this Act vesting the right to any stock in any person or persons appointed by the Lord Chancellor, intrusted as aforesaid, . . . such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock into his or their own name or names or otherwise, or relating to the receipt of the dividends thereof, to the extent and in conformity with the terms of such order; and the Bank of England, and all companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as the said Bank of England, or such companies, associations, or persons, would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying

Effect of an order vesting the legal right to transfer stock.

with the requisition of the person in whose place such appointment shall have been made; and after notice in writing of any such order of the Lord Chancellor, intrusted as aforesaid, . . . concerning any stock shall have been given, it shall not be lawful for the Bank of England, or any company or association whatever, or any person, having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made in any matter whatever relating to the transfer of such stock, or the payment of the dividends or produce thereof.

Effect of an order vesting legal right to sue for a chose in action.

27. Where any order shall have been made under the provisions of this Act, either by the Lord Chancellor, intrusted as aforesaid, . . . vesting the legal right to sue for or recover any chose in action or any interest in respect thereof in any person or persons, such legal right shall vest accordingly, and thereupon it shall be lawful for the person or persons so appointed to carry on, commence, and prosecute, in his or their own name or names, any action, suit, or other proceeding, at law or in equity, for the recovery of such chose in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such chose in action.

[*S. 28 rep. 57 & 58 Vict. c. 56. (S.L.R.) S. 29 rep. 56 & 57 Vict. c. 53. s. 51.*]

Court to declare what parties are trustees of lands comprised in any suit, and as to the interests of persons unborn.

30. Where any decree shall be made by any court of equity for the specific performance of a contract concerning any lands, or for the partition or exchange of any lands, or generally when any decree shall be made for the conveyance or assignment of any lands, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said court to declare that any of the parties to the said suit wherein such decree is made are trustees of such lands or any part thereof within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be trustees within the meaning of this Act, and thereupon it shall be lawful for the Lord Chancellor, intrusted as aforesaid, . . . to make such order or orders as to the estates, rights, and interests of such persons, born or unborn, as . . . the said Lord Chancellor might under the provisions of this Act make concerning the estates, rights, and interests of trustees, . . .

Power to make directions how the right to any stock, &c. vested under

31. It shall be lawful for the Lord Chancellor, intrusted as aforesaid, . . . to make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act shall be

exercised; and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations, by the same process as that by which other orders under this Act are enforced.

this Act is to be exercised.

[*Ss. 32-36 rep. 56 & 57 Vict. c. 53. s. 51.*]

37. An order, under any of the herein-before contained provisions, . . . concerning any lands, stock, or chose in action subject to a trust, may be made upon the application of any person beneficially interested in such lands, stock, or chose in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof; and an order, under any of the provisions herein-before contained, concerning any lands, stock, or chose in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Who may apply for orders under this Act.

[*Ss. 38, 39 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

40. Any person or persons entitled in manner aforesaid to apply for an order . . . from the Lord Chancellor, intrusted as aforesaid, may, should he so think fit, present a petition in the first instance . . . to the Lord Chancellor, intrusted as aforesaid, for such order as he may deem himself entitled to, and may give evidence by affidavit or otherwise in support of such petition before . . . the Lord Chancellor, intrusted as aforesaid, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

Power to present petition in the first instance.

41. Upon the hearing of any such . . . petition it shall be lawful . . . for the said Lord Chancellor, should it be deemed necessary, to direct a reference to one of the masters in ordinary of the Court of Chancery to inquire into any facts which require such an investigation, or it shall be lawful . . . for the said Lord Chancellor, to direct such . . . petition to stand over, to enable the petitioner or petitioners to adduce evidence or further evidence . . . before the said Lord Chancellor, or to enable notice or any further notice of such . . . petition to be served upon any person or persons.

What may be done upon petition.

42. Upon the hearing of any such . . . petition, whether any . . . report from a master shall have been obtained or not, it shall be lawful for . . . the Lord Chancellor, intrusted as aforesaid, to dismiss such . . . petition, with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Lord Chancellor may dismiss petition with or without costs, or make an order thereon.

[*Ss. 43, 44 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

45. It shall be lawful for the Lord Chancellor, intrusted as aforesaid, . . . to exercise the powers herein conferred for the purpose of vesting any lands, stock, or chose in action in

Powers of this Act may be exercised for purpose of

vesting lands,
&c. in trustees
of charities.

the trustee or trustees of any charity or society over which charity or society the Court of Chancery would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court of Chancery, or by order made upon a petition to the said court under any statute authorizing the said court to make an order to that effect in a summary way upon petition.

[*Ss. 46-49 rep. 56 & 57 Vict. c. 53. s. 51. S. 50 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Costs.

51. The Lord Chancellor, intrusted as aforesaid, . . . may order the costs and expences of and relating to the petitions, orders, directions, conveyances, assignments, and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the lands or personal estate, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Lord Chancellor . . . shall think proper.

On petition concerning any person of unsound mind, Lord Chancellor may direct a commission to issue.

52. Upon any petition being presented under this Act to the Lord Chancellor, intrusted as aforesaid, concerning a person of unsound mind, it shall be lawful for the said Lord Chancellor should he so think fit, to direct that a commission in the nature of a writ de lunatico inquirendo shall issue concerning such person, and to postpone making any order upon such petition until a return shall have been made to such commission.

Order may be postponed until the rights are declared in a suit.

53. Upon any petition under this Act being presented to the Lord Chancellor, intrusted as aforesaid, . . . it shall be lawful for the said Lord Chancellor . . . to postpone making any order upon such petition until the right of the petitioner or petitioners shall have been declared in a suit duly instituted for that purpose.

[*Ss. 54, 55 rep. 56 & 57 Vict. c. 53. s. 51. S. 56 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

Powers to extend to lands and personal estate in Ireland.

57. The powers and authorities given by this Act to the Lord Chancellor, . . . intrusted as aforesaid, shall and may be exercised . . . with respect to all lands and personal estate in Ireland.

Short title.

58. In citing this Act in other Acts of Parliament, and in legal instruments and in legal proceedings, it shall be sufficient to use the expression "The Trustee Act, 1850."

[*Ss. 59, 60 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXVII.

AN ACT . . . to amend the Laws relating to the Licences
granted to Brewers . . . [14th August 1850.]

[*Preamble.*]

[*Ss. 1-5 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

6. [*Recital of 6 Geo. 4. c. 81. ss. 2, 10.*] It shall not be lawful for any brewer of beer for sale . . . to sell, at any place other than . . . the premises in which he shall be licensed to exercise or carry on, and shall actually and bona fide exercise and carry on, the trade or business of a brewer of beer, beer in any quantity amounting to or exceeding four and a half gallons or two dozen reputed quart bottles of beer, to be drunk or consumed elsewhere than on the premises where sold; and if any brewer of beer shall . . . sell any beer at any place other than such licensed premises as aforesaid, contrary to the true intent and meaning hereof, he shall be subject and liable to and shall forfeit and lose the same penalty and penalties as any other person, not being a brewer of beer, is or would be subject or liable to for doing the like act without being duly licensed in that behalf.

Restriction
on brewers
selling beer
elsewhere than
at their
licensed brew-
ing premises.

7. . . : Provided also, that the taking or receiving of orders at any place whatever by any licensed brewer of beer, or his servant or agent, for the sale of beer in any quantity amounting to or exceeding four and a half gallons or two dozen reputed quart bottles at one time, which shall be sent to the purchaser direct from the premises in which such brewer shall be licensed to brew or sell beer shall not be deemed or held to be a selling of beer at any other place than such licensed premises.

Saving as to
taking orders
for the sale of
beer.

[*S. 8 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 9 rep. 37 & 38 Vict.
c. 16. s. 21.*]

CHAPTER LXVIII.

AN ACT to shorten the Duration of Elections in Ireland, and for
establishing additional Places for taking the Poll thereat.

[14th August 1850.]

[*Preamble.*]

[*Ss. 1, 3, 4 rep. 35 & 36 Vict. c. 33. s. 22. (temp.) S. 2 rep.
54 & 55 Vict. c. 67. (S.L.R.)*]

5. Each of the cities, towns, and boroughs in Ireland mentioned in the schedule (B.) to this Act annexed shall be divided into polling districts; and each of the wards into which the said cities, towns, and boroughs shall have been respectively divided for municipal purposes, under the provisions of the Act for the regulation of municipal corporations in Ireland, or any Act amending the same, shall be a separate polling district.

Division of
certain cities
and boroughs
into polling
districts.

3 & 4 Vict.
c. 108.

Division and
arrangement
of lists.

6. The clerk of the peace of or acting in or for each of the said cities, towns, and boroughs mentioned in the said schedule (B.) shall before the fifteenth day of March in the year one thousand eight hundred and fifty-one cause the list of voters for such city, town, or borough, duly signed by the assistant barrister, chairman, or revising barrister, upon the revision of the same, to be divided, arranged, and printed in the book of the register of voters for such city, town, or borough, in manner following; (that is to say,) the names of all persons appearing upon the said list as resident freemen shall be placed upon a separate list, to be entitled "The List of Resident Freemen," and shall be arranged therein in strict alphabetical order, according to the first, second, and other letters of their surnames, and the names in such list of freemen shall be numbered consecutively, beginning with number one; and the names of all persons appearing on the said list of voters signed as aforesaid as qualified in respect of any property qualification, or as occupiers of any lands tenements, or hereditaments, shall be divided into lists for the respective wards, according to the number and names of the municipal wards into which each such city, town, or borough shall have been divided under the said Act for the regulation of municipal corporations in Ireland, or any Act amending the same; and each of such ward lists shall be headed with the name of the ward, and shall contain the names of all persons appearing upon the said list of voters signed as aforesaid as qualified in respect of any property situate within such ward, or as occupiers of any lands, tenements, or hereditaments situate within such ward; and in each such ward list the names of the persons appearing thereon shall be arranged in strict alphabetical order, according to the first, second, and other letters of the surnames, and the names in each such ward list shall be numbered consecutively, beginning with number one.

Qualification
in respect of
property not
situate in any
ward, or
situate in more
than one ward.

7. In the case of any persons appearing on the said list of voters signed as aforesaid for any such city, town, or borough mentioned in the said schedule (B.), as qualified in respect of any property qualification, or as occupiers of any lands, tenements, or hereditaments, not situate within the limits of any of such wards, such clerk of the peace shall insert the name of each of such last-mentioned persons in the list for the ward which the said property, or the said lands, tenements, or hereditaments, in respect of which he may be so qualified, shall most nearly adjoin; or in case the said property, lands, tenements, or hereditaments, in respect of which any person may be qualified shall be situate in more than one ward, or partly within one or more ward or wards and partly without the limits of any ward, the clerk of the peace shall insert the name of any such last-mentioned person in the list of such one ward, in which such property, lands, tenements, or hereditaments shall be partly situate, as such clerk of the peace shall think fit.

8. The names of all persons who shall at any time be on the list of voters signed as aforesaid in each year for any such city, town, or borough mentioned in the said schedule (B.) shall be divided, arranged and printed by the said clerk of the peace in manner herein-before specified. Annual list of voters.

9. At every contested election for any such city, town, or borough mentioned in the said schedule (B.) the persons on the register and entitled to vote thereat as resident freemen shall (save as herein-after mentioned) vote at some booth or compartment to be erected or provided at or near the place at which the elections for such city, town, or borough are now usually holden, and not elsewhere; and all persons on the register and entitled to vote in respect of any property qualification, or as occupiers of any lands tenements, or hereditaments, shall vote at some booths or compartments to be erected or provided within the ward upon the list of which their names shall appear, and not elsewhere. Voting at booths.

[*Ss. 10-14, 16 rep. 35 & 36 Vict. c. 33. s. 22 (temp.). S. 15 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

17. . . . nothing in this Act contained shall be construed to affect or apply to the borough of the University of Dublin. University of Dublin not to be affected.

18. . . . where the proceedings at any election (whether such proceedings shall consist of the nomination of a candidate or candidates or of the taking of the poll) shall be interrupted or obstructed by any riot or open violence at or near the place of election or a polling place, or shall be interrupted or obstructed by any riot or open violence taking place elsewhere by the violent or forcible prevention, obstruction, or interruption of voters proceeding on their way to such election or polling place, (such last-mentioned prevention, obstruction, or interruption of voters proceeding on their way as aforesaid being shown by affidavit,) the sheriff or other returning officer, or the lawful deputy of any sheriff or returning officer, shall not for such cause terminate the business of such nomination, nor finally close the poll, but shall adjourn the nomination, or the taking of the poll at the particular polling place or places at or near to which or on the way to which such interruption or obstruction shall have happened, until the following day, and, if necessary, shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased, when the sheriff or returning officer or his deputy shall again proceed with the business of the nomination, or with the taking the poll, as the case may be, at the place or places at or near to which or on the way to which the same respectively may have been interrupted or obstructed; and the day on which the business of the nomination shall have been concluded shall be deemed to have been the day fixed for the election, and the commencement of the poll shall be regulated accordingly; and any day whereon the poll shall have been so adjourned shall not, as to such place or

Adjournment of nomination or poll in case of riot.

places, be reckoned the day of polling at such election within the meaning of this Act; and whenever the poll shall have been so adjourned by any deputy of any sheriff or other returning officer, such deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed, and the poll books delivered or transmitted to such sheriff or other returning officer, anything herein-before or in any other statute to the contrary notwithstanding: Provided always, that this Act shall not be taken to authorize an adjournment to a Sunday, but that in every case in which the day to which the adjournment would otherwise be made shall happen to be a Sunday, Good Friday, or Christmas Day, that day or days shall be passed over and the following shall be the day to which the adjournment shall be made.

Expence of
taking the poll.

19. All booths erected or provided for taking the polls at any such election shall be erected or provided by the sheriff or other returning officer at the joint expence of the candidates, except in the case when at an election for a county, city, town, or borough such requisition for additional booths as herein-before provided for shall have been made; subject however to the limitation herein-after contained; (that is to say,) that the expence to be incurred for the booth or each of the booths at the principal place of election or at any of the polling places for any county shall not exceed the sum of three pounds, if in a public building, and shall not exceed the sum of five pounds, if not in a public building, and that the expences to be incurred for any booth or compartment in any city, town, or borough shall not exceed the sum of three pounds, if in a public building, and shall not exceed the sum of five pounds, if not in a public building; . . . : Provided always, that if any candidate shall be proposed without his consent, the person proposing him shall be liable for his share of the expences as if he had been a candidate: Provided also, that the sheriff or other returning officer may, if he think fit, instead of erecting such booth or booths as aforesaid, hire any houses or other buildings for the purpose of taking the poll therein; subject however to the limitations as to expence herein-before contained.

[S. 20 *rep.* 35 & 36 *Vict. c.* 33. s. 32. (*temp.*)]

Candidate not
liable to pay
fee of assessor,
&c.

21. No candidate at any such election shall be liable to pay or to contribute to the payment of the fee of any assessor appointed by the sheriff or other returning officer.

[S. 22 *rep.* 35 & 36 *Vict. c.* 33. s. 32. (*temp.*) S. 23 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

Interpretation
of terms.

24. In the construction of this Act the word "city" shall be deemed to mean a county of a city, or a county and city; and the word "town" shall be deemed to mean a county of a town; . . .

25. The schedules annexed to this Act shall be deemed part of this Act. Schedules to be part of Act.

[S. 26 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

SCHEDULES to which the foregoing Act refers.

[Sched. A. rep. 54 & 55 Vict. c. 67. (S.L.R.)]

SCHEDULE (B.)

Sect. 5.

NAMES of Cities, Towns, and Boroughs, to be divided into Polling Districts.

Belfast.	Limerick.
Cork.	Waterford.
Dublin.	

CHAPTER LXIX.

AN ACT to amend the Laws which regulate the Qualification and Registration of Parliamentary Voters in Ireland, and to alter the Law for rating Immediate Lessors of Premises to the Poor Rate in certain Boroughs.^[1] [14th August 1850.]

S. L. R.
1954.

[Preamble recites 2 & 3 Will. 4. c. 88.]

Provisions as to qualification.

1.^[2] In addition to those now qualified by law to register and vote at any election of a knight of the shire in Ireland, in virtue of any qualification not requiring occupation, every male person of full age, and not subject to any legal incapacity, who shall occupy, as tenant or owner, any lands, tenements, or hereditaments within any county in Ireland, and shall be rated under the last rate for the time being under the Poor Relief (Ireland) Act, 1838, or any Act or Acts amending the same, as occupier of such lands, tenements, or hereditaments, at the net annual value of twelve pounds or upwards, shall, if duly registered according to the provisions herein-after contained, be entitled to vote at any election of a knight or knights of the shire to serve in Parliament for the county within which such lands, tenements, or hereditaments shall be situated: Provided that no such person shall be so registered in any year unless he shall have been such occupier for the space of twelve calendar months next before . . . the twentieth day of July in such year, and shall . . . on or before the first day of July in such year have paid all poor rates in respect of such lands, tenements, or hereditaments which shall have become payable from him in respect of such premises previously . . . to the first day of January in such year.

Occupiers of lands rated for the poor rate at a net annual value of 12l. or upwards, and being registered under this Act, to be entitled to vote at elections for counties in Ireland.

1 & 2 Vict. c. 56.

^[1] Short title, "The Representation of the People (Ireland) Act, 1850." See 55 & 56 Vict. c. 10.]

^[2] S. 1 is rep. 48 & 49 Vict. c. 3. s. 12, but see savings, and s. 7 of that Act.]

Persons entitled to estates in fee or in tail, or for life, of the rated value of 5*l.*, to have votes for counties.

2. In addition to those now qualified by law to register and vote at any election of a knight of a shire in Ireland, in virtue of any qualification not requiring occupation, every male person of full age, and not subject to any legal incapacity, who shall be seised of or entitled for his own use to any estate, legal or equitable, in fee simple or fee tail, or for his own life, (such tenant for life not being a lessee or assignee of a lessee, or an under-lessee,) or of or to any estate of freehold for lives renewable for ever, or estate quasi in tail of such freehold, in any lands, tenements, or hereditaments which shall be rated in the last rate for the time being under the said Acts for the more effectual relief of the destitute poor in Ireland at the net annual value of five pounds or upwards, and shall be, to the person so seised or entitled, of the net annual value of five pounds at the least above all charges, save taxes, cesses, or rates, payable out of the same, shall, if duly registered according to the provisions hereinafter contained, be entitled to vote at any election of a knight or knights of the shire to serve in Parliament for the county in Ireland within which such lands, tenements, or hereditaments shall be situate: Provided that no such person shall be so registered in any year unless he shall have been in the actual possession of such premises, or in the receipt of the rents and profits thereof for his own use, for the space of six calendar months next before . . . the twentieth day of July in such year; but no actual occupation of such premises shall be necessary in the case of any person so seised or entitled who shall for such space of six calendar months have been in such receipt of such rents and profits for his own use.

No one to vote at a county election on a qualification requiring occupation, unless qualified under this Act.

3. No person, except as herein-before provided, shall be entitled to vote at any election of a knight or knights of the shire to serve in Parliament for such county in respect of any qualification which requires the elector to be or to have been in the actual occupation of lands, tenements, or hereditaments within such county.

No persons to have votes for counties in respect of lands within cities and boroughs which would qualify them to vote for such cities, &c.

4. Provided always, that no person shall be entitled to vote at any election of a knight or knights of the shire for any county in Ireland, in respect of any lands, tenements, or hereditaments situate within the parliamentary boundary of any city, town, or borough in Ireland returning a member or members to serve in Parliament, and in respect of which he would be entitled to vote at an election for such city, town, or borough, whether he shall or shall not have actually acquired the right to vote for such city, town, or borough in respect thereof.

Occupiers of lands or premises rated for the poor rate at a net annual value of 8*l.* or

5.^[1] In addition to those now qualified by law to register and vote at any election of a member or members to serve in Parliament for any city, town, or borough in Ireland, in virtue of any qualification not requiring occupation, every male person of full age, and not subject to any legal incapacity, who shall

[¹ Section 5 is rep. 48 & 49 Vict. c. 3. s. 12, but see savings, and s. 7 of that Act.]

occupy, as tenant or owner, within any city, town, or borough upwards, and in Ireland returning a member or members to serve in Parlia- being regis- ment, any lands, tenements, or hereditaments, and shall be rated tered under this Act, to be under the last rate for the time being under the Poor Relief entitled to vote (Ireland) Act, 1838, or any Act or Acts amending the same, as at elections for cities or towns occupier of such respective lands, tenements, or hereditaments, in Ireland. at a net annual value of eight pounds or upwards, shall, if duly 1 & 2 Vict. registered according to the provisions herein-after contained, be c. 56. entitled to vote at any election of a member or members to serve in Parliament for the city, town, or borough within which such respective premises shall be situated: Provided that no such person shall be so registered in any year unless he shall have been such occupier for the space of twelve calendar months next before the twentieth day of July in such year, and shall on or before the first day of July in such year have paid all poor rates in respect of such respective premises which shall have become payable from him in respect of such premises previously to the first day of January in such year.

6. When any lands, tenements, or hereditaments as aforesaid within any such city, town, or borough shall be jointly occupied by more persons than one as tenants or owners thereof, and such persons shall be rated in such rate as last aforesaid jointly in respect of such premises, each of such persons shall, subject to the conditions herein-before provided as to a person occupying lands, tenements, or hereditaments in any such city, town, or borough, be entitled to vote at any election of a member or members to serve in Parliament for the city, town, or borough within which such premises are situate, in case the net annual value of such premises, as appearing on such rate, when divided by the number of persons rated jointly in respect thereof, shall give a net annual value of [2] eight pounds or upwards for each of such persons, but not otherwise.

7. The premises in respect of the occupation of which any person shall be entitled to be registered in any year, and to vote in the election for any city, town, or borough as aforesaid, shall not be required to be the same premises, but may be different premises occupied in immediate succession by such person during the twelve calendar months next previous to the twentieth day of July in such year, such person having paid, on or before the first day of July in such year, all the poor's rates which shall, previously to the first day of January in such year, have become payable from him in respect of all such premises so occupied by him in succession.

8. No person, except as herein-before provided, shall be entitled to vote at any election of a member or members to serve in Parliament for such city, town, or borough, in respect of any qualification which requires the elector to be or to have

Provision as to joint occupiers in cities or towns.

Provision as to premises occupied in succession.

No one to vote at an election for a city, &c. on a qualification

requiring occupation, unless qualified under this Act.

Provisions as to voting in respect of trust and mortgage estates.

been in the actual occupation of any lands, tenements, or hereditaments, or any premises, situate within such city, town, or borough. . . .

9. [Recital of 2 & 3 Will. 4. c. 88. s. 47.] No mortgagee of any lands, tenements, or hereditaments shall vote in any election of a member or members to serve in Parliament for or by reason of any mortgage estate therein, unless he be in the actual possession and receipt of the rents and profits thereof, but the mortgagor in actual possession or in receipt of the rents and profits thereof shall and may vote for the same, notwithstanding such mortgage; and no trustee of any lands, tenements, or hereditaments shall in any case have a right to vote in any such election for or by reason of any trust estate therein, but the cestuique trust in actual possession or in the receipt of the rents and profits thereof, though he may receive the same through the hands of the trustee, shall and may vote for the same, notwithstanding such trust.

[Ss. 10, 11 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.) S. 12 *rep.* 54 & 55 *Vict.* c. 67. (S.L.R.)]

Length of possession required previous to registration under this Act for counties.

13. No person shall be registered under the provisions of this Act in any year as a voter in the election of a knight or knights of the shire in Ireland, in respect of his estate or interest in any lands, tenements, or hereditaments, as a freeholder . . . unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, for six calendar months at least next previous to the twentieth day of July in such year, and no person shall be so registered in any year in respect of any lands, tenements, or hereditaments held by him as lessee or as assignee of a lessee, or as occupier, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, as the case may require, for twelve calendar months next previous to the twentieth day of July in such year: Provided always, that where any lands, tenements, or hereditaments, which would otherwise entitle the owner, holder, or occupier thereof to vote in any such election, shall come to any person at any time within such respective periods of six or twelve calendar months by descent, succession, marriage, marriage settlement, devise, bequest, or promotion to any benefice or office, such person shall be entitled in respect thereof to have his name inserted as a voter in the election of a knight or knights of the shire in the lists then next to be made by virtue of this Act, as herein-after mentioned, and, upon his being duly registered according to the provisions herein-after contained, to vote in such election.

Certain conditions required previous to registration under this Act for boroughs.

14. . . . no person shall be registered in any year as a voter in the election of a member or members to serve in Parliament for any city, town, or borough, as a freeman . . . or by reason of any corporate or other right for the enjoyment of which residence is by law required, unless he shall have resided for six calendar months next previous . . . to the twentieth day

of July in such year within such city, town, or borough, or within seven statute miles of the usual place of election therein, nor unless . . . he shall on the^[1] said last-mentioned respective days of such respective years be qualified in such manner as would have entitled him then to be registered or to vote under the Representation of the People (Ireland) Act, 1832, if this Act had not been passed; and no person shall be so registered in any year as a voter in the election of a member or members to serve in Parliament for any such city, town, or borough, as lessee, or as assignee of a lessee, for any term of years, or as occupier, of lands, tenements, or hereditaments within such city, town, or borough, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, as the case may require, for a period of twelve calendar months next previous to the^[1] said last-mentioned respective days of such respective years; and no person shall be so registered in any year as a voter in any such election, in right of any freehold estate in lands, tenements, or hereditaments within such city, town, or borough, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, for six calendar months next previous to the said last-mentioned respective days of such respective years: Provided always, that when any lands, tenements, or hereditaments which would otherwise entitle the owner, holder, or possessor thereof to vote in any such election shall come to any person at any time within such respective periods of six or twelve calendar months by descent, succession, marriage, marriage settlement, devise, bequest, or promotion to any benefice or office, such person shall in respect thereof be entitled to be registered as a voter in the register then next to be made under this Act.

*County
registration.*

15. For the purpose of forming a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in Parliament for the several counties in Ireland, the clerk of the peace for every such county shall, . . . on or before the first day of June in every year, make out and cause to be printed or provided, . . . a sufficient number of copies of such parts of the register under this Act of voters then in force for such county as shall relate to each barony of such county.

Clerk of the peace to print yearly copies of the parts of the county register relating to each barony.

16. The clerk of the peace for every such county shall cause a sufficient number of forms of precepts, notices, and lists to be printed as required, . . . and shall also, on or before the first day of June in each year, make and cause to be delivered to the clerk of every poor law union situate wholly or in part within his county his precept, . . . together with one or more copies of such parts . . . of the register under this

Precepts, &c. to be printed, and sent to clerks of unions.

[¹ The 9th November 1850 as regards the register for the year 1851, and the 5th July for any succeeding year. The provisions as to the register for 1851 are repealed and omitted from the text.]

Act of voters then in force for such county as shall relate to each barony or part of a barony of such county situate in the union of which he acts as clerk of the union, . . .

[*Ss. 17, 18 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Clerks of unions to enter objections on the copy of register of each barony.

19. The clerk of each poor law union wholly or in part within the limits of any county in Ireland, on or before the eighth day of July in every year, shall, after due inquiry, which he is hereby required to make, with the assistance of the respective collector or collectors of poor rates, (which assistance such collector or collectors is and are hereby required to give,) upon the copy of the register of each barony or division of a barony of such county included within such union transmitted to him in such year by the clerk of the peace of such county, enter objections to the names of persons not entitled to be on the register then next to be made, in manner following; that is to say, such clerk of the union shall add, by a stamp or in writing, in the margin for such purpose, the word "objected" or "dead" before the name of any person whose qualification, as stated on such copy of register, is as rated occupier of lands, tenements, or hereditaments of the annual value of [¹] twelve pounds or upwards, if such person shall not have been rated, in the then last rate made under the Acts for the more effectual relief of the destitute poor in Ireland, as the occupier of the same lands, tenements, or hereditaments in such respective barony of a net annual value of [¹] twelve pounds or upwards, or if such person shall not on or before the first day of July in such year, have paid all poor rates (if any) which shall have become payable by him in respect of such lands, tenements, or hereditaments previously to the first day of January in such year, or if such clerk of the union shall have reasonable cause to believe such person not to be or to have ceased to be occupier as aforesaid, or not to have been such occupier during the whole period from the twentieth day of July in the then last preceding year to the then present time, or if such clerk of the union shall have reasonable cause to believe such person not to be entitled to have his name on the register of voters then next to be made for such county, or to be dead, as the case may be;

Copies of register to be signed by clerks of unions, and verified, and to be returned by clerks of unions to clerk of the peace.

. . . and such copies of register shall be signed by such respective clerk of the union, and shall be verified by him as true and correct, according to the best of his belief, by an oath to be made by him before some justice of the peace in and for the said county within which such lands are situate, or the county in which the union workhouse is situate, and which oath any such justice is hereby authorized and required to administer, and to certify at the foot of such copies of register the taking of such oath; and such clerk of the union shall return each such copy of register, with all such marginal additions as aforesaid, to the clerk of the peace of such respective county wherein such barony or division of a barony is situate,

[¹ S. 5 of 48 & 49 Vict. c. 3. in effect substitutes ten.]

on or before the eighth day of July in such year: Provided always, that in case any barony of a county shall be divided so as to lie in more than one union, the clerk of the peace of such county shall transmit as aforesaid one or more copies of register for such barony to the clerk of each such union, together with a list of the townlands situate in the respective division of such barony situate in such union, who shall deal with such copy of register, and the names of the persons contained therein, so far as it relates to the division of such barony within his union, in all respects as in this provision is directed or required in the case of a barony not so divided.

Provision
where a barony
lies in more
than one union.

20. The clerk of each poor law union wholly or in part within the limits of any county in Ireland shall, on or before the eighth day of July in every year, make out, and, together with such copy of register for each such barony or division of a barony of the county within his union, transmit to the clerk of the peace of the county as aforesaid, a supplemental list of every male person of full age, not already appearing on such copy of register, who shall be rated in the then last rate made under the Acts for the more effectual relief of the destitute poor in Ireland as the occupier of any lands, tenements, or hereditaments situate within such union, and in such respective barony or division of a barony, as the case may be, of a net annual value of [1] twelve pounds or upwards, excluding nevertheless from such supplemental list every such occupier who shall not on or before the first day of July in such year have paid all poor rates (if any) which shall have become payable by him in respect of such lands, tenements, or hereditaments previously to the first day of January then last; and such clerk of the union is hereby required, after due inquiry as aforesaid, with the assistance of the respective collector or collectors of poor rates as aforesaid, (which assistance such collector or collectors is and are hereby required to give,) to enter objections before the names of persons in such supplemental list contained, and not entitled to be on the register next to be made, in like manner in all respects and in the like cases as in the immediately preceding provision directed and required with regard to the copy of register of such barony or division of a barony and the names therein contained, and such list shall be signed by such respective clerk of the union, and shall be verified by him as true and correct, according to the best of his belief, by an oath to be made by him before some justice of the peace in and for the said county within which such lands are situate, or the county in which his respective union work-house is situate, and which oath any such justice is hereby authorized and required to administer, and to certify at the foot of such list the taking of such oath.

Supplemental
lists.

21. The clerk of the peace of every county in Ireland shall, on or before the twentieth day of July in every year, after

Clerk of the
peace, on copy
of register of

[1 S. 5 of 48 & 49 Vict. c. 3. in effect substitutes ten.]

each barony returned by clerk of union, to enter objections to persons not entitled as herein required.

making due inquiry, (which he is hereby required to make by himself or a sufficient deputy,) upon the copy of the register for each barony or division of a barony aforesaid returned to him by the respective clerk of the union, enter objections before the names of persons therein contained, and not entitled to be on the register next to be made, in manner following; that is to say, he shall add, by a stamp or in writing, in the margin for such purpose, the word "objected" or "dead" before the name of any person in such copy of register whose qualification, as stated therein, is other than as rated occupier, if such clerk of the peace, after such due inquiry as aforesaid, have reasonable cause to believe that such person is not entitled to have his name on the register next to be made, or is dead, as the case may be; and in case of a barony being divided so as to be situate in several unions as aforesaid, the clerk of the peace shall make out one complete copy of register for such barony, by selecting the copy of register so returned to him for one such division of such barony, and truly and carefully transferring to such copy of register all the objections entered in the other copy or copies of such register to any person or persons in the other division or divisions of such barony by the clerk of the union or clerks of the unions comprising such other division or divisions of such barony; and the clerk of the peace shall cause a sufficient number of copies of such copy of the register for each barony, with all such marginal additions as aforesaid, and also of "the supplemental list" for such barony, with all such marginal additions as aforesaid, to be written, printed, or provided, and shall, on or before the twenty-second day of July, sign and publish the same in the barony to which the same shall relate

Clerks of the peace to give notice annually, requiring persons entitled to votes, but not on the register, &c. to send in their claims.

22. the clerk of the peace of every county shall on or before the twenty-second day of July in every year publish in each barony a notice / . . . , having first signed the same, requiring all persons entitled to vote in the election of a knight or knights of the shire to serve in Parliament in respect of any property situate wholly or in part in each barony, who shall not be upon the register for such barony of voters then in force, and shall not be on the supplemental list for such barony, and all persons so entitled to vote as aforesaid, who, being upon such register, shall not retain the same qualification or continue in the same place of abode as described in such register, and who are desirous to have their names inserted in the register about to be made, to give or send to the said clerk of the peace at his office, on or before the fourth day of August then next ensuing, a notice in writing, by them signed, of their claim to vote as aforesaid; and every such person, and any person who, being upon such register, may be desirous to make a new claim, shall on or before the said fourth day of August deliver or send to the said clerk of the peace at his office a notice, signed by him, of his claim

Clerks of the peace to prepare lists of

23. The clerk of the peace of every county in Ireland shall on or before the ninth day of August in every year make out

an alphabetical list for each barony of all persons who on or before the fourth day of August then next preceding, shall have claimed as aforesaid for such barony; and in every such list the christian name and surname of every claimant, with the place of his abode, the nature of his qualifications, and the local or other description of the property, and the name of the occupying tenant thereof (if any), shall be written as the same are stated in the claim; and the said clerk of the peace, if he shall have reasonable cause to believe that any person whose name shall appear in such list of claimants is not entitled to have his name upon the register for such barony then next to be made, shall add, by a stamp or in writing, the word "objected" before the name of every such person on the margin of such list of claimants; and the clerk of the peace shall cause a sufficient number of copies of such list of claimants in each barony, with all such marginal additions as aforesaid; to be written or printed, and shall . . . , on or before the eleventh day of August in each year, sign and publish the same in such barony to which the same relates . . .

claimants, and
enter objec-
tions.

24. In every year the copy of the register for the time being, together, in such year, with the supplemental list and such list of claimants (if any) as aforesaid, for every barony, with the marginal additions respectively as aforesaid, shall be deemed to be the list of voters of such barony for the county within which such barony may be situate, for the purposes herein-after mentioned.

Copy of regis-
ter for each
barony, with
supplemental
list and list of
claimants, to
be deemed the
list of voters
for such
barony.

25. It shall be lawful for any person whose name shall be on any list of voters for the time being for any county in Ireland, upon request made by him, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, between the twenty-seventh day of July and the twenty-first day of August in every year, to any clerk of the union or other officer having the custody of any poor rate book, to inspect such poor rate book, and make extracts therefrom, for any purpose relating to any claim or objection made or intended to be made by or against such person; and every such clerk of the union or other officer as aforesaid is hereby required, upon such request as aforesaid, to permit such inspection and the making of such extracts, without payment of any fee.

Voters em-
powered to
inspect rate
books.

26. In every year every person who shall be upon the register of voters for the time being for any such county may object to any other person upon any list of voters or list of claimants for such county, as not having been entitled on the twentieth day of July then next preceding to have his name inserted in any list of voters or claimants for such county; and every person so objecting (save and except clerks of the peace and clerks of the union objecting in the manner herein-before mentioned) shall on or before the twentieth day of August in each year give or cause to be given to the clerk of the peace of the county a notice . . . ; and the person so objecting shall on or before the twentieth day of

Registered
voters em-
powered to
object to per-
sons registered
or claiming.

August in each year give or cause to be given to the person so objected to, or leave or cause to be left at his place of abode as described in such list, a notice . . . ; and every such notice of objection shall be signed by the party so objecting as aforesaid ; and whenever the place of abode of the person objected to, as described in the said list, shall not be in the barony to which such list may relate, and the name of the occupying tenant of the whole or any part of the qualifying property, together with his place of abode, shall appear in such list, the person so objecting shall also, on or before the same day, give to or leave, or cause to be given or left, at the place of abode of any such occupying tenant, a duplicate notice, signed as aforesaid.

Clerk of the peace to publish lists of persons objected to.

27. The clerk of the peace shall in every year include the names of all persons against whom notice of objection shall have been given to him as aforesaid in that year in a list for each barony, . . . and shall publish such list in such barony on or before the twenty-second day of August in each year . . .

Borough registration.

[S. 28 (as to list of voters in cities, towns, and boroughs in Ireland registered within 8 years previous to 15th March 1851) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Clerk of the peace to send precept, &c. to the town clerk of each city, &c.

29. The clerk of the peace of or acting in or for every such city, town, or borough shall cause a sufficient number of forms of notices and lists to be printed, . . . and shall also, on or before the first day of June in every year, make and cause to be delivered to the town clerk of every such city, town, or borough his precept in writing, . . . and also a sufficient number of the said printed forms of notices and lists and of the said table, and shall also deliver together therewith to the town clerk of every such city, town, or borough a sufficient number of copies of the register under this Act of voters then in force for such city, town, or borough.

Town clerks of boroughs, &c. to publish notices previous to registration, requiring payment of poor rates.

30. The town clerk of every such city, town, or borough shall on or before the fifth day of June in every year, publish a notice in writing, . . . stating that no person will be entitled to have his name inserted in any list of voters for such city, town, or borough then next to be made . . . in respect of the occupation of premises rated under the Acts for the relief of the destitute poor in Ireland, as of a net annual value of [1] eight pounds or upwards, situate within such city, town, or borough, unless he shall pay, on or before the first day of July then next ensuing, all the poor's rates (if any) which shall have become payable by him in respect of such premises previously to the first day of January in such year.

Town clerks empowered to inspect rate books.

31. The town clerk of every such city, town, or borough, for his assistance in making out the list of voters as hereinafter mentioned, (upon request made by him at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, between the sixteenth day of June and the twentieth day of July in every year, to any collector of poor rates, or to any other

officer having the custody of any such rate or rate book,) shall have free liberty to inspect the same, and to extract such particulars as may appear to such town clerk to be necessary; and every collector of poor rates of premises within such city, town, or borough, or officer having the custody of the rate books relating to the same, shall (if required by the town clerk) within four days after the first day of July in every year make out and deliver to the said town clerk a list containing the name and place of abode of every person who shall not have paid on or before the said first day of July in each year all such rates within the collection of such collector as aforesaid which shall have become payable by him (if any) in respect of the occupation of any lands, tenements, or hereditaments in such city, town, or borough, describing such premises, previously to the first day of January in such year . . .

Poor rate collectors, if required, shall deliver to town clerks lists of persons who have not paid their rates.

32. The clerk of every poor law union comprising the whole or any part of any city, town, or borough in Ireland returning a member or members to serve in Parliament shall . . . on or before the eighth day of July in every year . . . make out and transmit to the town clerk of each such city, town, or borough a list of every male person of full age who shall be rated, in the then last rate made under the Acts for the more effectual relief of the destitute poor in Ireland, as the occupier of any lands, tenements, or hereditaments, situate within such city, town, or borough, of a net annual value of [¹] eight pounds or upwards, and of every such person as last aforesaid who shall be rated, in the then last rate made under the said Acts, jointly with any other person or persons, as the occupier of any such lands, tenements, or hereditaments, situated as aforesaid, of a net annual value of such an amount as when divided by the number of occupiers would give to each such occupier a net annual value of [¹] eight pounds or upwards, excluding nevertheless from such list every such occupier and every such joint occupier who in each year shall not on or before the first day of July in such year have paid all poor rates (if any) which shall have become payable by him in respect of such premises previously to the first day of January then last; . . . and such lists shall be signed by such respective clerk of the union, and shall be verified by him as true and correct according to the best of his belief, by an oath or declaration to be taken or made by him before some justice of the peace acting in and for the said city, town, or borough, or the county in which the union workhouse is situate, and which oath or declaration any such justice is hereby authorized and required to take.

Clerks of unions shall transmit to town clerks lists of persons rated as occupiers of premises of an annual value of *sl.* or upwards.

Lists to be signed by clerks of unions, and verified.

33. The town clerk of every such city, town, or borough shall, on or before the twentieth day of July in every year make out or cause to be made out alphabetical lists of all persons who shall be entitled to vote in the election of a member or members to serve in Parliament for such city, town, or borough; that is to say, first, an alphabetical list . . . of every such male

Town clerks shall make out annually lists of persons entitled to vote.

person of full age as shall appear on the list transmitted to him by the clerk of the union in such respective year as the rated occupier, or one of several such rated joint occupiers, of lands, tenements, or hereditaments, situate within such city, town, or borough, of the net annual value of [1] eight pounds or upwards, and (in the case of joint occupiers) of the net annual value of [1] eight pounds or upwards for each of such joint occupiers as aforesaid, . . . and another alphabetical list ./. . of all other persons (except persons on the freemen's roll) who shall be entitled to vote in the election of such city, town, or borough, by virtue of any other right whatsoever; and a third alphabetical list . . . of all persons on the freemen's roll who shall be entitled to vote in the election of such city, town, or borough: Provided always, that such town clerk shall omit from the first-mentioned list all such persons as shall not have paid, on or before the first day of July in each year, all poor rates payable by them severally, if any, in respect of such lands, tenements, or hereditaments, previously to the first day of January in such year, and shall in like manner omit from the two last-mentioned lists all such ./. . freemen, and others entitled to vote by any right to the enjoyment of which residence is by law required, as shall not have resided for six calendar months next previous to the twentieth day of July in such . . . year, within the said city, town, or borough, or within seven statute miles of the usual place of election therein, and shall add, by a stamp or in writing, the word "objected" to the name of any person inserted in such first-mentioned list, in case such town clerk shall have reasonable cause to believe such person not to be or to have ceased to be occupier or joint occupier as aforesaid of the premises in respect of which he shall have been rated, or not to have been such occupier or joint occupier for the space of twelve calendar months next previous to the said last-mentioned respective days in such respective years; and such town clerk shall in every year, in like manner add the word "objected" to the name of every person whose qualification appearing on such copy of register shall be the occupation or joint occupation of premises of the net annual value of [1] eight pounds or upwards, or (in the case of joint occupiers) of the net annual value of [1] eight pounds or upwards for each of such joint occupiers, and who shall not appear in the list transmitted to him by the clerk of such union in such year; and such town clerk in every year shall also in like manner add the word "objected" or "dead" before the name of any person contained in such list of voters or copy of register delivered by the clerk of the peace as aforesaid, if such town clerk have reasonable cause to believe that such person is not entitled to have his name on the register then next to be made, or is dead, as the case may be; and in each of the said lists the christian name and surname of every such person shall be written at full length, together with the place of his abode and

Town clerks to omit persons who have not paid their rates, or have not resided for the time required by law.

Towns clerks to enter objections to occupiers believed to be disqualified:

or whose names do not appear in lists transmitted by clerks of unions;

and to persons believed not to be entitled, or to be dead.

Particulars to be contained in lists.

the nature of his qualification, and where any person shall be entitled to vote in respect of any lands, tenements, or hereditaments, then the name of the street, lane, and the number of the house (if any), or other description of the place, where such lands, tenements, or hereditaments may be situate, shall be specified in the list; and the said town clerk shall sign such list, and shall forthwith cause a sufficient number of copies of the said lists, with all such marginal additions, to be written or printed, and shall publish copies of the said lists on or before the twenty-second day of July in each year . . .

Lists to be signed, printed, and published.

34. Every person whose name shall have been omitted in any such list of voters for any such city, town, or borough so to be made out as aforesaid, and who shall claim as having been entitled on the twentieth day of July then next preceding, by virtue of any registration under the herein-before first-recited Act or otherwise, to have his name inserted therein, (except persons claiming by virtue of any such registration in respect of the occupation of premises of the clear yearly value of not less than ten pounds,) and every person desirous of being registered for a different qualification than that for which his name appears in the said list, shall on or before the fourth day of August in each year, give or cause to be given to the town clerk of such city, town, or borough a notice, . . . and the town clerk shall include the names of all persons so claiming as aforesaid in lists, . . . and in every such list the christian name and surname of every claimant, with the place of his abode, the nature of his qualifications, and the local or other description of the property, shall be inserted, as the same are stated in the claim; and the said town clerk, if he shall have reasonable cause to believe that any person whose name shall appear in such list of claimants is not entitled to have his name upon the register then next to be made, shall add as aforesaid the word "objected" before the name of every such person on the margin of such list of claimants; and the town clerk shall cause a sufficient number of copies of such lists of claimants, with all such marginal additions as aforesaid, to be written or printed, and shall, on or before the eleventh day of August in every year sign and publish the same . . .

Persons omitted from lists of voters, or desirous of being registered for a different qualification, may claim.

Town clerk shall make out lists of claimants:

and enter objections.

35. It shall be lawful for any person whose name shall be on any list of voters for the time being for any such city, town, or borough, or for any person who shall have claimed to have his name inserted in any such list, upon request made by any such person, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, between the twenty-seventh day of July and the twentieth day of August in each year, to any collector of poor rate or other officer having the custody of any such rate or rate book, to inspect the same, and make extracts therefrom, for any purpose relating to any claim or objection made or intended to be made by or against such person; and every such collector or other officer as aforesaid is hereby required, upon such request

Registered voters and claimants may inspect rate books, and take extracts.

as aforesaid, to permit such inspection and the making such extracts, without payment of any fee.

Persons on lists may object to any other persons.

Notices of objection shall be given, signed by the persons objecting.

Lists of persons objected to shall be signed, printed, and published.

Town clerks to annually deliver copies of lists of voters, &c. to the clerk of the peace.

Penalty for destroying notices, &c.

Lists not to be invalidated by imperfect publication.

If no list shall be made out or published in

36. Every person whose name shall have been inserted in any list of voters for any such city, town, or borough may object to any other person as not having been entitled on the twentieth day of July next preceeding, to have his name inserted in any list of voters or list of claimants for the same city, town, or borough; and every person so objecting (save and except town clerks objecting in the manner herein-before mentioned) shall, on or before the twentieth day of August in each year, give or cause to be given a notice . . . to the town clerk of such city, town, or borough; and every person so objecting shall also, on or before the twentieth day of August in each year, give or cause to be left at the place of abode of the person objected to, as stated in the said list, a notice . . . ; and every notice of objection shall be signed by the person objecting.

37. The said town clerk shall include the names of all persons so objected to in lists, and shall sign the said lists, and cause copies thereof to be written or printed, and shall publish the said lists of persons objected to as aforesaid, on or before the twenty-second day of August in each year . . .

38. The said town clerk shall, on or before the twenty-fifth day of August in every year, deliver to the clerk of the peace of or acting in or for such city, town, or borough, copies of the said lists of voters, made out by him as aforesaid, with the marginal additions as aforesaid, and a copy of the said list of persons who shall have claimed as aforesaid, and a copy of the said lists of persons objected to as aforesaid, respectively signed by him, together with the copy of the register as aforesaid.

[*Ss. 39, 40 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

41. Every person who shall wilfully destroy, mutilate, efface, or remove any notice, list, copy of register, or other document so affixed as aforesaid, during the period during which the same is herein-before required to remain so affixed, shall for every such offence forfeit any sum not exceeding forty shillings nor less than ten shillings to any person who will sue for the same, to be recovered in a summary manner before two justices of the peace.

42. No list shall be invalidated by reason that it shall not have been affixed in every place and for the full time herein-before required for publication thereof, but every such list which shall have been affixed in any place and for any part of the time herein-before mentioned in that behalf shall be revised and adjudicated upon as herein-after directed: Provided nevertheless, that nothing herein contained shall be construed to exempt the clerk of the peace, town clerk, or other person charged with the duty of publishing such list as aforesaid, from the penalties of his neglect or wilful default.

43. In case no list of voters shall have been made out for any barony, city, town, or borough in any year, or in case such

lists shall not have been affixed in any place herein-before mentioned in that behalf, the register of voters for that barony, city, town, or borough then in force shall be taken to be the list of voters for that barony, city, town, or borough for the year then next ensuing; and the provisions herein-contained respecting any such list of voters shall be taken to apply to such register as aforesaid.

any year, the register then in force shall be the list for the ensuing year.

44. The clerk of the peace of every such county shall in every year, as soon as possible after the twenty-fifth day of August, transmit to the assistant barrister of such county or any riding thereof, or to the chairman of the sessions of the peace in the case of the county of Dublin, an abstract of the lists of claimants and of the lists of persons objected to by such clerk of the peace, and by the clerk or clerks of the union or unions, and by other persons, in each barony in and for the same county; and the clerk of the peace or acting in or for every such city, town, or borough shall as soon as possible after the twenty-fifth day of August in every year transmit an abstract of the said several lists of claimants, and the lists of persons objected to by the town clerk, and by the clerk or clerks of the union or unions, and by others, in the same city, town, or borough, to the assistant barrister, chairman, or his deputy, having jurisdiction under the said first-recited Act for the registry of voters for such city, town, or borough, in order that proper times and places for holding courts for the revision of such lists respectively may be appointed.

Abstracts of lists of claimants and persons objected to to be transmitted annually to the assistant barristers.

[S. 45 *rep.* 38 & 39 *Vict.* c. 66. (S.L.R.) S. 46 (requiring clerks of the peace to give public notice of revising barristers' courts by advertisement in one or more of the newspapers circulating within the county, and to cause a sufficient number of copies of the said notice to be written or printed, and published and posted in each barony, and to deliver or send copies thereof to the clerk or clerks of the union or unions in which the several baronies or parts thereof are situate) *rep.* 36 & 37 *Vict.* c. 2. s. 3., which substitutes other provisions.]

47. Such respective assistant barrister or chairman, or his deputy, as before the passing of this Act would have had jurisdiction under the said recited Act for the registry of voters for any such city, town, or borough, shall hold an open court for the revision of the lists of voters within such city, town, or borough, between the eighth day of September inclusive and the twenty-fifth day of October inclusive in every year, and shall, ten days at the least before holding such court, give notice to the clerk of the peace acting for such city, town, or borough, of the time and place for holding the same; and the clerk of the peace shall forthwith publish such notice in the manner herein-before directed, and also in the manner in which notices of the holding of sessions are usually published.

Assistant barristers to hold courts of revision in boroughs.

48. The clerk of the peace of every such county, or his deputy, shall from day to day attend each and every court of revision

Clerks of the peace, and clerks of

unions, to attend courts of revision in counties.

which shall be held in such county under this Act, and at the opening of the first court of revision to be so holden as aforesaid in and for the same county in each year shall deliver or cause to be delivered to the assistant barrister holding such court all the lists of voters for the then current year, with the marginal additions as aforesaid, and the lists of claimants, and of persons objected to, in the said year, and the original notices of claims and notices of objections given to him as aforesaid, and the return or returns of the clerk or clerks of the unions for each barony respectively of the said county, and shall also in every year deliver to such assistant barrister one or more printed copies of the register of voters then in force for the said county; and the clerks of the several unions wholly or in part in each county shall attend with and produce at the courts of revision holden in such county for the several districts wherein their respective unions or any part thereof may be situate all books of rates made for the relief of the poor in such unions, or any part or electoral division thereof respectively, within such county, between the twentieth day of July in the then preceding year and the twentieth day of July in the then current year, or (if there have been no such rate made in any electoral division) the then last rate as to the same; and the said clerk of the peace and clerks of unions shall answer upon oath all such questions as such assistant barrister may put to them, and produce all documents, papers, and writings, in their possession, custody, or power, touching any matter herein mentioned: Provided always, that in case the attendance of any clerk of a union, or the production of any rate or rate book of any union, shall be required at different courts at or about the same time, it shall be lawful for the clerk of such union, by writing under his hand, to appoint a proper person to be his deputy for the purpose of attending at any such court, or producing such rate or rate book, or a compared copy thereof, or of part thereof, which deputy shall be subject to like provisions as such clerk of the union; and for the purposes of this Act a compared copy of any such rate or rate book, or of any part thereof, shall be *prima facie* evidence; but when any question shall arise at any court held under this Act in relation to any such compared copy, it shall be lawful for the assistant barrister, if he shall think fit, to require the production at any such court, or at some adjournment thereof, of the original rate or rate book.

Deputies of clerks of union may attend, and produce compared copies of rate books, where different courts are held at the same time.

Clerks of the peace, town clerks, and clerks of unions, to attend revision courts in boroughs.

49. The clerk of the peace of or acting in or for every such city, town, or borough, or his deputy, and the town clerk for every such city, town, or borough, and the clerk of the respective union, or his deputy, to be appointed as aforesaid, shall attend the court of revision to be holden for every such city, town, or borough; and such clerk of the peace shall in every year deliver to the assistant barrister one or more printed copies of the register then in force for the said city, town, or borough; and such town clerk shall, at the opening of the said court, deliver to

the assistant barrister the several lists so made by him, with the marginal additions as aforesaid, and also the original notices of claim and objection received by him as aforesaid, and the clerk of the union's list as aforesaid; and the said clerk of the peace, and town clerk, and clerk of the union, or such deputy as aforesaid, respectively, shall answer upon oath all such questions as the assistant barrister may put to them or any of them, and produce all documents, papers, and writings, in their possession, custody, or power, touching any matter necessary for revising the list of voters.

50. At each court of revision holden in or for any such county, city, town, or borough, every assistant barrister shall have power to require any collector of poor's rates, or other officer or person having the custody of any such rate, or any such collector for the past year, to attend before him at any court to be by him holden in pursuance of this Act, and they shall attend accordingly, and answer upon oath all such questions as may be put to them.

Collectors of rates shall attend revision courts, if required.

51. Any person whose name shall appear in the list of voters of any barony in and for any county, and whose place of abode, as stated in such list, shall not be within the polling district at which the said barony shall be allotted to poll, but within the same county, shall be at liberty to make his claim before the assistant barrister to vote at the polling place of the district wherein his said place of abode may be situate; and any person whose name shall appear in any list as aforesaid, and whose place of abode, as stated in such list, shall not be within the same county, shall be at liberty in like manner to make his claim to vote at the polling place of any district within the same county; and every such person shall make his claim in writing under his hand; and such claim shall be delivered to and verified before the assistant barrister holding his court for the revision of the list of voters in which the name of such person shall appear as aforesaid, and it shall then be lawful for the said barrister to insert in the said list, against the name of such person so claiming as aforesaid, the name of the polling place at which such person shall be registered to vote; and such person so registered shall be admitted to vote at any contested election for the said county at the said last-mentioned polling place, and not elsewhere, anything in this Act to the contrary notwithstanding.

County voters residing out of polling district or county, may vote at any polling place in the county.

52. If any person who shall have given to the clerk of the peace due notice of his claim to have his name inserted in the list of persons entitled to vote in the election of a knight or knights of the shire shall have been omitted by such clerk of the peace from such list, it shall be lawful for the assistant barrister, upon the revision of such list, to insert therein the name of the person so omitted, in case it shall be proved to the satisfaction of such assistant barrister that such person gave due

Qualified claimants, if omitted by clerk of peace, may be placed on the list by assistant barrister.

notice of such his claim to the said clerk of the peace, and that he was entitled on the twentieth day of July then next preceding to be inserted in the said list of voters.

Like provision
as to boroughs.

53. The assistant barrister holding any court of revision under this Act in any city, town, or borough shall insert in any list of voters for such city, town, or borough the name of every person omitted who shall be proved to the satisfaction of such assistant barrister to have given due notice of his claim to be inserted in such list, and to have been entitled on the twentieth day of July then next preceding to have his name inserted therein in right of the qualification described in such notice of claim.

Such persons
may be ob-
jected to.

54. It shall be lawful for any person whose name shall be on any list of voters for any county, city, town, or borough, to oppose the claim of any person so omitted as aforesaid to have his name inserted in any list of voters for the same county, city, town, or borough; and such person intending to oppose any such claim shall, in the court to be holden as aforesaid for the revision of such list, and before the hearing of the said claim, give notice in writing to the assistant barrister of his intention to oppose the said claim, and shall thereupon be admitted to oppose the same, by evidence or otherwise, without any previous or other notice, and shall have the same rights, powers, and liabilities, as to costs, appeal, and other matters relating to the hearing and determination of the said claim, as any person who shall have duly objected to the name of any other being retained on any list of voters, and who shall appear and prove the requisite notices as herein-after mentioned.

Duties of
barristers in
revising lists

55. The assistant barrister presiding at any such court of revision shall . . . provide that the name of the same person shall not appear twice on the list of voters or register of any county, city, town, or borough; . . .

Powers of
barristers to
adjourn courts,
summon
witnesses,
administer
oaths, &c.

56. Every assistant barrister holding any court under this Act shall have power to adjourn the same from time to time, and from any one polling place to any other polling place or other place appointed as aforesaid within the same county, or within the same city, town, or borough, but so that no such adjourned court shall be holden after the twenty-fifth day of October in any year; and at every court to be holden as aforesaid by any assistant barrister the said barrister shall have power to summon as witnesses any persons whose evidence may appear to be material, and to administer an oath to all persons examined before him; and all parties, whether claiming or objecting or objected to, and all persons whatsoever, may be examined upon oath touching the matters in question; and every person taking any oath or affirmation under this Act who shall wilfully swear or affirm falsely shall be deemed guilty of perjury; and at the holding of such respective courts no party or other person shall appear or be attended or heard by

Parties shall
not appear by
counsel.

counsel; and every such barrister shall, upon the hearing in open court, finally determine upon the validity of such claims and objections . . . ; and such assistant barrister shall, in open court, write his initials against the names . . . respectively expunged or inserted, and against any part of the said lists in which any mistake shall have been corrected or any omission supplied or any insertion made by him, and shall sign his name to every page of the several lists so settled.

Barristers shall determine all claims and objections, and initial all alterations in lists, and sign each page.

57. Every court of revision for the purpose of making out or revising the register of voters under this Act shall be deemed to be a court of record; and it shall be lawful for every assistant barrister before whom such court shall be held, from time to time as there shall be occasion, to fine the clerk of the peace or his deputy, or the under sheriff of the county, county of the city, or county of the town, for which such court shall be held, who shall be guilty of any breach of duty in execution of this Act, any sum not exceeding five pounds, and at his discretion to fine in any sum not exceeding two pounds, or to commit to prison for any time not exceeding one fortnight, any person who shall disturb the said court, or shall be guilty of any other contempt of the said court.

Revision courts to be courts of record.

58. It shall be lawful for any person who under the provisions herein-before contained shall have made any claim to have his name inserted in any list, or made any objection to any other person as not entitled to have his name inserted in any list, or whose name shall have been expunged from any list, and who in any such case shall be aggrieved by or dissatisfied with any decision of any assistant barrister on any point of law material to the result of such case, either himself or by some person on his behalf to give to the assistant barrister in court before the rising of the said court on the same day on which such decision shall have been pronounced a notice in writing that he is desirous to appeal, and in such notice shall shortly state the decision against which he desires to appeal; and the said assistant barrister thereupon, if he thinks it reasonable and proper that such appeal should be entertained, shall state in writing the facts which, according to his judgment, shall have been established by the evidence in the case, and which shall be material to the matter in question, and shall also state in writing his decision upon the whole case, and also his decision upon the point of law in question appealed against; and such statement shall be made as nearly as conveniently may be in like manner as is now usual in orders of refusal to register any claimant under the Representation of the People (Ireland) Act, 1832, on any ground other than insufficiency of value; and the said assistant barrister shall read the said statement to the appellant in open court, and shall then and there sign the same; and the said appellant, or some one on his behalf, shall at the end of the said statement make

General provisions as to registration and appeal.

Appeal from barrister's decision on points of law.

2 & 3 Will. 4. c. 88.

a declaration in writing under his hand to the following effect; (that is to say,) "I appeal from this decision"; and the said assistant barrister shall then indorse upon every such statement the name of the county and barony, or city, town, or borough, to which the same shall relate, and also the christian name and surname and place of abode of the appellant and of the respondent in the said appeal, and shall sign and date such indorsement; and the said assistant barrister shall deliver such statement, with such indorsement thereon, to the said appellant, to be by him transmitted to the Court of Exchequer Chamber at Dublin in the manner herein-after mentioned; and the said assistant barrister shall also deliver a copy of such statement, with the said indorsement thereon, to the respondent in such appeal, who shall require the same.

Who shall be
respondents in
appeal.

59. In the matter of every such appeal the party in whose favour the decision appealed against shall have been given shall be the respondent; but if there be no such party, or if such party or some one on his behalf, shall in open court decline, and state in writing that he declines, to support the decision appealed against as respondent, then and in every such case it shall be lawful for the said assistant barrister to name any person who may be interested in the matter of the said appeal, and who may consent, or the clerk of the peace of any county, or the town clerk of any city, town, or borough, to be, and such person so consenting, or such clerk of the peace or town clerk respectively so named, shall be deemed to be, the respondent in such appeal.

Power to con-
solidate
appeals.

60. If it shall appear to any assistant barrister that the validity of any number of such claims or objections determined by him at any court as aforesaid depends, and has been decided by him, upon the same point or points of law, and the parties, or any of them, aggrieved by or dissatisfied with his decision thereon shall have given notice of an intention to appeal therefrom, it shall in such case be lawful for the said barrister to declare that the appeals against such decision ought to be consolidated, and the said barrister shall in such case state in writing the case, and his decision thereon, in manner herein-before mentioned, and that several appeals depend upon the same decision, and ought to be consolidated, and shall read such statement, and sign the same, as herein-before mentioned; and thereupon it shall be lawful for the said barrister to name any person interested and consenting, for and on behalf of himself and all other persons in like manner interested in such appeals, to be the appellant or respondent respectively in such consolidated appeals, and to prosecute or answer the said appeal in like manner as any appellant or respondent might in his own case, under the provisions of this Act; and the person so named appellant in such consolidated appeal, or some one on his behalf, shall at the end of the said statement make and

sign a declaration in the form or to the effect following; (that is to say,)

‘I, for myself and on behalf of all the other persons who are interested as appellants in this matter, and whose names are hereunder written, do appeal against this decision, and agree to prosecute this appeal.’

And the person so named respondent in such consolidated appeal, or some one on his behalf, shall in like manner make and sign a declaration in writing in the form or to the effect following; (that is to say,)

‘I, for myself and on behalf of all the other persons interested as respondents in this matter, and whose names are hereunder written, do agree to appear and answer this appeal.’

And the name, and, where necessary, the particulars of the qualification of every party intended to be joined in such consolidated appeal shall be written under the aforesaid declaration of the appellant or respondent respectively to which they may respectively refer: Provided always, that it shall be lawful for the said barrister, if necessary, in any case, to name the clerk of the peace of any county, or the town clerk of any city, town, or borough, to be, and he so named shall be, the respondent in such consolidated appeal, without any such declaration being made or signed by him as herein-before mentioned.

61. In and with regard to every such consolidated appeal the like proceeding shall be had and taken, and the like rules and regulations shall apply, as in the case of any other appeal under this Act; and every order, judgment, or decision of the said Court of Exchequer Chamber shall be equally valid and effectual for all the purposes of this Act, and binding and conclusive upon all the parties named in or referred to as parties to such consolidated appeal as aforesaid; and if in any case all or any of the parties to such consolidated appeal shall make or enter into any agreement as to the mode of contributing among themselves to the costs and expences of such appeal, the said agreement may, upon the application of any party or parties thereto, be made a rule of any of her Majesty's superior courts of law at Dublin, if such court shall think fit: Provided always, that if any such consolidated appeal shall not be duly prosecuted or answered, it shall be lawful for the Court of Exchequer Chamber, or any of such superior courts of law, to give to any party or parties interested in such appeal, upon his or their application, the conduct and direction of the said appeal, or of the answer thereto respectively, as the case may require, instead of or in addition to any person named as aforesaid as appellant or respondent, and in such manner and upon such terms as such court may think fit and order, or to make such other order in the case as may seem meet: Provided also, that if, after the said assistant

Proceedings on consolidated appeals.

barrister shall as aforesaid have declared that the appeal in any case ought to be with others consolidated, any party interested in such appeal shall object and refuse to be a party to or to be bound by any such consolidated appeal, then and in such case the appeal in which such person is interested may proceed separately, but such person so refusing or objecting shall be liable to pay costs to the other party, but shall not be entitled to receive any costs of or in such appeal, unless the said Court of Exchequer Chamber otherwise order.

Provisions as
to costs before
barrister.

62. If in any case it shall appear to any assistant barrister holding any court as aforesaid that any person shall under this Act have made or attempted to sustain any groundless or frivolous and vexatious claim or objection or title to have any name inserted or retained in any list of voters, it shall be lawful for the said barrister, in his discretion, to make such order as he shall think fit for the payment by such person of the costs, or of any part of the costs, of any person or persons in resisting such claim or objection or title; and in every such case the said barrister shall make an order in writing, specifying the sum which he shall order to be paid for such costs, and by and to whom, and when and where, the same sum shall be paid, and shall date and sign the said order, and deliver it to the person or persons to whom the said sum shall therein be ordered to be paid: Provided always, that the said sum so ordered to be paid by way of costs shall not in any case exceed the sum of [¹ five pounds]: Provided also, that such order for the payment of costs as aforesaid may be made in any case, notwithstanding any party shall have given notice of his intention to appeal against any decision of the assistant barrister in the same case; but in case of such appeal the said order for the payment of costs shall be suspended, and shall abide the event of such appeal, unless the court of appeal shall otherwise direct; but no appeal shall be allowed or entertained against or only in respect of any such order for the payment of costs: Provided also, that whenever any assistant barrister shall have made any such order for the payment of any sum of money for costs by any person who shall have made any objection as aforesaid, it shall not be lawful for the said barrister to hear or admit proof of any other objection or notice of objection made or signed by the same person, until the sum of money so ordered to be paid by him for costs be paid to the person entitled to receive the same, or deposited in the hands of the said barrister in court, for the use of the person so entitled.

Revised lists
of voters to be
transmitted to
the clerk of the
peace in coun-
ties, and
printed.

63. The said lists of voters for each county, signed as aforesaid, shall be forthwith transmitted by the assistant barrister to the clerk of the peace of the same county; and the clerk of the peace shall keep the said lists among the records of the sessions, and shall forthwith cause the said lists to be printed in a book or books, arranged with the names in each barony in strict

[¹ Substituted for twenty shillings by 48 & 49 Vict. c. 17. s. 23.]

alphabetical order, according to the first, second, and other letters of the surnames, and with every polling district in alphabetical order, and with every barony within such polling district likewise in the same order, and shall, after the last list for each polling district, insert a list in like alphabetical order of all persons whose names shall not appear in any of the said lists for such polling district, but who shall in manner herein-before mentioned have been registered by the assistant barrister to vote at the polling place of such last-mentioned district, and shall in the said book prefix to every name its proper number, beginning the numbers from the first name in each barony, and continuing them in a regular series down to the last name in such barony: Provided always, that a number as aforesaid shall be prefixed to the name of every person in every such list inserted after the last list for any polling district as aforesaid; and no number, but an asterisk only, shall be prefixed to the name of the same person in the list of the barony in which the name originally appeared; and every such book shall be printed and arranged in such manner and form that the list of voters of and for each and every separate barony contained therein may be conveniently and completely cut out or detached from all the other lists of voters contained in the same book, so that all the lists for every or any polling place, or the list of every or any single barony, may be ready for the purposes of this Act, or for sale; and the said clerk of the peace shall sign and deliver the said book or books, on or before the last day of [1 December] in the then current year, to the sheriff of the county, to be by him and his successors in the office of sheriff safely kept for the purposes herein-after mentioned.

64. The list of voters for each city, town, or borough, signed as aforesaid, shall be forthwith delivered by the assistant barrister to the clerk of the peace of or acting in or for the same city, town, or borough, and the said clerk of the peace shall forthwith cause the said lists to be printed in a book or books; and in the said book or books the said lists shall be arranged, and every name numbered, according to the directions aforesaid with regard to the county lists, so far as the same are applicable, save that in the case of any of the cities, town, and boroughs mentioned in the schedule (B.) annexed to an Act of the present session of Parliament, intituled "An Act to shorten the duration of elections in Ireland, and for establishing additional places for taking the poll thereat," the said lists shall be arranged and divided, according to wards and otherwise, and the names numbered, in such manner as is or shall be directed by such last-mentioned Act; and the said clerk of the peace shall sign and deliver the said book or books, on or before the last day of [1 December] in the current year, to the returning officer of the same city, town, or borough, to be by him and his successors as returning officer safely kept for the purposes herein-after mentioned.

Revised lists for boroughs to be delivered to the clerk of the peace and printed.

13 & 14 Vict. c. 68.

Books so prepared shall constitute the registers for one year.

Printed copies of registers to be kept for sale.

65. The said printed book or books, so signed as aforesaid by the clerk of the peace, and given into the custody of the sheriff of any county, or the returning officer of any city, town, or borough, as the case may be, shall be the register of persons entitled to vote at any such election which shall take place in and for the same county, city, town, or borough respectively [1] . . . ; and the clerk of the peace of every county shall keep printed copies of the said register for such county, and shall deliver such copies of such register, or any part thereof, to any person applying for the same, upon payment . . . ; and the clerk of the peace of or acting in or for every city, town, or borough respectively shall keep printed copies of the said register for such city, town, or borough, and shall from time to time supply a sufficient number of copies of such register to the town clerk of such city, town, or borough, who shall deliver such copies of such register, or any part thereof, to any person applying for the same, upon payment . . . , and account for and pay over to the said clerk of the peace all monies by him received for or on account of the sale of any copies of the register as aforesaid: Provided always, that no person shall be entitled to a copy of any part of any register relating to any barony without taking or paying for the whole that relates to such barony.

Officers having custody of rate books may be fined by barristers for non-attendance.

66. Any collector of poor rates, or clerk of a union, or other officer or person having the custody of any such rate or rate book as herein-before mentioned for the then current or any past year, who shall wilfully refuse or neglect, when duly required by summons under the hand of any assistant barrister, to attend before such barrister at any court to be holden as aforesaid, according to the exigency of such summons, shall, upon proof before him of the service of such summons, be liable to pay by way of fine, for every such offence, a sum of money not exceeding five pounds nor less than twenty shillings, to be imposed by and at the discretion of the said barrister holding any such court as aforesaid.

Clerks of unions, clerks of peace, and town clerks, may be fined for neglect of duty.

67. Any clerk of any union who shall wilfully refuse or neglect to make out or verify as hereby required, or to transmit, any list, copy of the register, or return, which he is by this Act required to make out, verify, and transmit, or who shall wilfully and without reasonable cause omit the name of any person entitled to be inserted in such list, copy of the register, or return, or who shall wilfully or without reasonable cause insert in such list, copy of the register, or return, the name of any person not entitled to be inserted in such list, copy of the register, or return, or who shall wilfully refuse or neglect, by himself or his deputy, to attend with and produce, at any court for revising the list of voters which he is hereby required to attend, the rate or rate books or compared copies which he is hereby required to produce thereat, or any clerk of the peace of

[1] During the year commencing 1 January next after the register is made: See 31 & 32 Vict. c. 112. s. 32.]

a county, or any town clerk of any city, town, or borough, or other officer required by this Act to act in default of there being any town clerk, who shall wilfully refuse or neglect to make out any list required to be made out by him under the provisions of this Act, or who in making out the lists of voters shall wilfully and without reasonable cause omit the name of any person duly qualified or entitled to be inserted in any such list, or who shall wilfully and without reasonable cause insert in any such list the name of any person not duly qualified or entitled to be inserted therein, or any clerk of the peace, or town clerk, or other such officer as aforesaid, who shall wilfully refuse or neglect to publish any notice or list or copy of the list of the voters, or of the part of the register of voters relating to his county, or to his city, town, or borough, at the time and in the manner required by this Act, or who shall wilfully refuse or neglect to attend the court for revising any list of voters of his county, or of his city, town, or borough, or to attend any assistant barrister, when required by any summons as aforesaid, or any town clerk who shall wilfully refuse or neglect to deliver to the clerk of the peace the copy of the list of claimants, or of persons objected to, or the copies of the list of voters or register, as required by this Act, or any clerk of the peace who shall wilfully refuse or neglect to deliver to the barrister holding any such court the several lists to be delivered by him as aforesaid, or any clerk of the peace, or town clerk, or clerk of a union, who shall be wilfully guilty of any other breach of duty under or in the execution of this Act, shall for every such offence be liable to pay by way of fine a sum of money not exceeding five pounds nor less than twenty shillings, to be imposed by and at the discretion of the assistant barrister holding any court for the revision of any list of the barony or division of a barony, or the city, town, or borough, for which such officer is required to act as aforesaid: Provided always, that nothing herein contained as to any fine as aforesaid shall affect or abridge any right of action against any clerk of the peace, clerk of a union, town clerk, or other person liable to any fine as aforesaid, or any liability, civil or criminal, which such clerk of the peace, clerk of a union, town clerk, or other person may incur under or by virtue of this Act.

68. Any such assistant barrister, when and so often as he shall impose any such fine as aforesaid, shall at the same time in open court, by an order in writing under his hand stating the sum payable for such fine, direct by and to whom and when the same shall be paid, and the person to whom the said sum shall be so ordered to be paid shall receive the same; and in every case where the offence for which such fine shall have been so imposed shall relate to the formation of the register of voters for any county, he shall pay over the sum so received by him to the clerk of the peace of the same county; and in every case where such offence shall relate to the formation of the register

Fines, to whom payable.

of voters for any city, town, or borough, he shall pay over the sum so received by him to the clerk of the peace acting in or for the same city, town, or borough.

Application of monies arising from sale of copies of registers, and from fines.

69. The clerk of the peace of every such county, and the clerk of the peace of or acting in or for every such city, town, or borough, respectively, shall keep an account of all monies to be received by him or them for or on account of the sale of any copies of the register as aforesaid, or for or by way of fine imposed as aforesaid; and the clerk of the peace of every such county, county of a city, or county of a town, shall pay over or account for all such monies received by him to the treasurer of the same county, county of a city, or county of a town, to be applied in aid of any grand jury presentment made under the authority of this Act; and the clerk of the peace of or acting in or for every such borough situate in a county at large shall pay over or account for all such monies so received by him to the treasurer of such county, to be applied as aforesaid, and, in the case of a borough situate in two or more counties, to and among the treasurers of such counties, to be applied by them in aid of any grand jury presentments to be made on such counties respectively under this Act; and the share of each such county shall be calculated as nearly as may be according to the same relative proportion as the number of persons in each county placed on the register for such borough shall bear to the total number of persons upon the same register.

Expences of the clerks of the peace, &c. to be defrayed by grand jury presentment.

70. An account of all expences incurred by any clerk of the peace of or acting for any county, county of a city, or county of a town, or by any clerk of the peace of or acting in or for any borough situate in a county at large, in carrying into effect the provisions of this Act, including the expences of providing and printing the copies of the register and the lists and forms required under this Act, shall be laid before the next presentment sessions of the county at large, or county of a city, or county of a town, after such expences shall have been incurred, (save, in the case of the city of Dublin, where it shall be laid before the council of the said borough); and it shall be lawful for the grand jury of such county, county of a city, or county of a town, at the next assizes or presenting term, and (in the case of the city of Dublin) for the council of the borough of Dublin, and they respectively are hereby required, to present, to be levied off such county, county of a city, or county of a town, such expences, or so much thereof as such presentment sessions, or grand jury, or council, as the case may be, shall allow for the clerk of the peace, to be paid to him, and so much of the said expences of providing and printing such copies of the register and lists and forms as aforesaid, to be paid to the person or persons who shall have contracted for supplying and printing such copies of the register and lists and forms as aforesaid.

71. An account of all the expences incurred by any clerk of the peace acting in or for any borough situate in two or more counties, in carrying into effect the provisions of this Act, including the expences of providing and printing such copies of the register and such lists and forms as aforesaid in respect of such borough, shall, as soon as may be after the said expences have been so incurred, be laid before the town council of such borough, or if there be no town council, before the commissioners elected in such borough under the Lighting of Towns (Ireland) Act, 1828, or before the municipal commissioners of such borough, or if there be no such council or commissioners in any borough, then before the justices of the peace at the quarter sessions to be holden in and for the county to which the clerk of the peace acting in or for such borough may belong; and the said council or commissioners or the said justices respectively shall when they allow the said accounts make and give to the said clerk of the peace a certificate of the total sum allowed by such council, commissioners, or justices, in respect of all the said expences, and also a certificate of the sum to be paid by and as the contribution of each of the said counties towards defraying the same; and the sum to be contributed by every such county shall be calculated, as nearly as may be, according to the same relative proportion as the number of persons in each county placed on the register for such borough shall bear to the total number of persons upon the same register; and thereupon it shall be lawful for the grand jury of every such county, and they are hereby required, upon the production of such certificate, and after a previous application to the presentment sessions of the county at large, at the next or any succeeding assizes for such county to present to be levied off such county the sum in such certificate mentioned, to be paid by and as the contribution of such county to the said expences.

Apportionment
of expences in
boroughs
situate in two
or more
counties.

9 Geo. 4. c. 82.

72. An account of all expences incurred by the town clerk of or acting in or for any city, town, or borough, in carrying into effect the provisions of this Act, shall be laid before the assistant barrister at the court at which the list of voters for such city, town, or borough shall be revised; and the said barrister shall sign and give to such town clerk a certificate of the sum which he shall allow to be due to him in respect of such expences, and also of such sum as he shall deem it reasonable to allow to him for his trouble in carrying into effect the provisions of this Act, and in case of any borough situate in two or more counties shall also give to the said town clerk acting in or for such borough a certificate of the sum to be paid by and as the contribution of each of the said counties towards defraying the sums so allowed; and the sum to be contributed by every such county shall be calculated, as nearly as may be, according to the same relative proportion as the number of persons in each county placed on the register of such borough shall bear to the total number of persons upon the same register; and such account and certificate

Expences of
town clerks to
be settled by
barrister, and
defrayed by
grand jury
presentment.

shall be laid before the presentment sessions of the county, county of a city, or county of a town, or of the county in which any borough in a county at large is situate, next after such expences shall have been incurred (save in the case of the city of Dublin, where they shall be laid before the council of the said borough); and thereupon it shall be lawful for the grand jury of any such county, county of a city, or county of a town, at the next assizes or presenting term, and (in the case of the city of Dublin) for the council of the borough of Dublin, and they are hereby respectively required, to present, to be raised off such county, county of a city, or county of a town, the total sum in such certificate mentioned, or the sum in such certificate mentioned as the contribution of any such county towards the said total sum, as the case may be, or so much thereof as such presentment sessions or grand jury or council, as the case may be, shall allow, to be paid to the said town clerk.

[S. 73 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

Appeals to be heard by Court of Exchequer Chamber.

74. All appeals or matters of appeal from or in respect of any decision of any assistant barrister entertained in manner hereinbefore mentioned shall be prosecuted, heard, and determined in and by the Court of Exchequer Chamber at Dublin, in such manner and form, and subject to such rules and regulations, as the said court shall from time to time, by any rule or order made for regulating the practice and proceedings in such appeals, order and direct: . . .

Notice of prosecution of appeal to be given.

75. Every appellant who shall intend to prosecute his appeal shall, within the first four days in the Michaelmas term next after the decision to which such appeal shall relate, transmit to the clerk of the errors in the said court the statement in writing so signed by the said assistant barrister as aforesaid, and shall also therewith give or send a notice, signed by him, stating therein his intention to prosecute the said appeal; and the said appellant shall also give or send a notice, signed by him, to the respondent in the said appeal, stating his said intention duly to prosecute such appeal; and such clerk of the errors shall forthwith enter every appeal of which he shall have received due notice from the appellant as aforesaid in a book to be kept by him for that purpose.

Sittings of the Court of Exchequer Chamber for purposes of this Act, how to be fixed.

76. The Chief Justice of the Court of Queen's Bench in Ireland for the time being, or, in case of his sickness or absence from Ireland, or the vacancy of the said office, the Chief Baron of the Court of Exchequer in Ireland for the time being, shall, as soon as may be after the fourth day of every Michaelmas term, make arrangements for hearing the appeals entered as aforesaid, and shall appoint such certain day or days, either in term time or in time of vacation, as he may think fit and necessary, but as early as conveniently may be, for the purpose of hearing and deciding such appeals; and such respective chief

justice or chief baron, as the case may be, shall cause public notice to be given of the time so appointed by him for that purpose, and of the order in which such appeals will be heard.

77. No such appeal or matter of appeal whatsoever shall in any case, except where the conduct and direction of a consolidated appeal, or of the answer thereto, shall have been given, by order of the said Court of Exchequer Chamber, or any of the said superior courts of law, to any person, be entertained or heard by the said Court of Exchequer Chamber, unless notice shall have been given by the appellant to the clerk of the errors in the said last-mentioned court, at the time and in the manner herein-before mentioned; and no appeal shall be heard by the said court in any case where the said respondent shall not appear, unless the appellant, or person to whom the conduct and direction of the appeal shall have been given, shall prove that due notice of his intention to prosecute such appeal was given or sent to such respondent six days at least before the day appointed for the hearing of such appeal: Provided always, that if it shall appear to the said court that there has not been reasonable time to give or send such notice in any case, it shall be lawful for the said court to postpone the hearing of the appeal in such case, as to the said court shall seem meet.

Notice of
appeal.

78. No appeal or notice of appeal under this Act shall be received or allowed against any decision of any assistant barrister upon any question of fact only, or upon the admissibility or effect of any evidence or admission adduced or made in any case to establish any matter of fact only: Provided always, that if the said court shall be of opinion in any case that the statement of the matter of the appeal is not sufficient to enable them to give judgment in law, it shall be lawful for the said court to remit the said statement to the assistant barrister by whom it shall have been signed, in order that the case may be more fully stated.

No appeal on
questions of
fact, or
evidence.

79. Every judgment or decision of the said Court of Exchequer Chamber shall be final and conclusive in the case upon the point of law adjudicated upon, and shall be binding upon any committee of the House of Commons appointed for the trial of any petition complaining of an undue election or return of any member or members to serve in Parliament.

Decisions of
Court of Ap-
peal final.

80. Whenever, by any judgment or order of the said Court of Exchequer Chamber, any decision or order of any assistant barrister shall be reversed or altered, so as to require any alteration or correction of the register of voters for any county, or for any city, town, or borough, notice of the said judgment or order of the said court shall forthwith be given by the said court to the sheriff or returning officer, as the case may be, having the custody of such register, and also to the clerk of the peace hereby directed to keep copies thereof; and each such

Registers to be
corrected in
pursuance of
decisions of
Court of
Appeal.

notice shall be in writing under the hand of the clerk of the errors in the said court, and shall specify exactly every alteration or correction to be made in pursuance of the said judgment or order in the said register; and such sheriff or returning officer respectively shall, upon the receipt of the said notice, alter or correct the register accordingly, and shall sign his name against every such alteration or correction in the said register, and shall safely keep, and hand over to his successors, every such notice received by him from the said court as aforesaid, together with the said register; and the said clerk of the peace shall make the like alteration or correction in a copy of the register to be kept by him for such purpose, and also in all copies thereof which he shall from time to time deliver.

Copies of decisions, signed by clerk of errors, to be evidence.

81. A copy of any order or decision of the said Court of Exchequer Chamber, such copy purporting to be signed by the clerk of the errors, shall be sufficient evidence in all cases, without proof of the signature of the said clerk, and shall have the like force and effect as any entry made in any list or register of voters under this or the said recited Act.

Pendency of appeal not to affect right of voting.

82. No right of voting at any election as aforesaid of a member or members to serve in Parliament shall be affected by any appeal pending in the said court at the time of the issuing of the writ for such election, but it shall be lawful for every person to exercise the right of voting at such election as effectually, and every vote tendered thereat shall be as good as if no such appeal were pending; and the subsequent decision of any appeal which shall be pending in the said court at the time of the issuing of the writ for any such election shall not in any way whatsoever alter or affect the poll taken at such election, or the return made thereat by the returning officer.

Orders respecting costs.

83. . . . it shall not be lawful for the said court in any case to make any order for costs against or in favour of any respondent or person named as respondent as aforesaid, unless he shall appear before the said court in support of the decision of the assistant barrister in question.

Costs and fines imposed by barristers, how recoverable.

84. In case any sum of money by the order of any assistant barrister as aforesaid directed to be paid by any person by way of fine or of costs shall not be paid according to the terms of such order, it shall be lawful for any justice of the peace, and he is hereby required, upon proof before him that a true copy of the said order hath been served upon or left at the usual place of abode of the person in the said order directed to pay such sum, and that the said sum hath been demanded of such person, and that he hath refused or neglected to pay the same, by warrant under his hand and seal to order the said sum of money, together with the costs of and attending the said

warrant, to be levied by distress and sale of the goods and chattels of such person so making default which may be found within the jurisdiction of the said justice; and the overplus, if any, after the said sum of money and costs, and the charges of such distress and sale, are deducted, shall be returned, upon demand, to the owner of the said goods and chattels: Provided always, that no certiorari or other writ or process for the removal of any such order or warrant, or of any order or warrant to be made or issued on account of a false charge of personation in the manner herein-after provided, or any proceeding thereon respectively, into any of her Majesty's courts at Dublin shall be allowed or granted.

85. At every election of a member or members to serve in Parliament for any county, city, town, or borough, in Ireland, the register of voters so made as aforesaid under this Act shall be deemed and taken to be conclusive evidence that the persons therein named continue to have the qualifications which are annexed to their names respectively in the register in force at such election.

Register to be conclusive evidence of right to vote.

[S. 86 rep. 35 & 36 Vict. c. 33. s. 32 (temp.)]

87. Provided also, that in the case of any voter whose qualification appearing on the register of voters in force at any such election shall be the occupation of lands, tenements, or hereditaments, rated as of the net annual value of [¹] twelve pounds or upwards, or [¹] eight pounds or upwards, as the case may be, when any such voter shall have voted at any such election, no subsequent diminution of the valuation or rate of or on such respective premises upon an appeal against the rate, and no subsequent quashing of such rate, shall upon petition to the House of Commons or otherwise invalidate the vote given at such election by such voter who shall be so on the register of voters then in force as aforesaid, and shall at the time of voting be in the occupation of the said premises.

In case of subsequent diminution of valuation or rate, votes not invalidated.

88. In all elections whatever of a member or members to serve in Parliament for any county, or for any city, town, or borough, in Ireland, no inquiry shall be permitted at the time of polling as to the right of any person to vote, nor any objection thereto made or received by any returning officer or his deputy, except only as follows; (that is to say,) that the returning officer or his respective deputy shall, if required on behalf of any candidate, put to any voter at the time of his tendering his vote, and not afterwards, the following questions, or either of them:

No inquiry at any election, except as to identity of voter, and as to whether he has already voted.

1. "Are you the same person whose name appears as A.B. on the register of voters now in force for the county of
[or for the city or town or borough of
as the case may be]"?

[¹ S. 5 of 48 & 49 Vict. c. 3. in effect substitutes ten.]

2. "Have you already voted, either here or elsewhere, at this election for the county of [or for the city or town or borough of , as the case may be]"?

Oath.

And if any person shall wilfully make a false answer to either of the questions aforesaid he shall be deemed guilty of a misdemeanor, and shall and may be indicted and punished accordingly; and the returning officer or his deputy, or a commissioner or commissioners, (whom the returning officer is hereby authorized, if he shall think fit, to appoint for that purpose,) shall, if required on behalf of any candidate at the time aforesaid, administer an oath . . . to any voter, in the following form:

"You do swear that you are the same person whose name appears as A.B. on the register of voters now in force for the county of [or for the city or town or borough of , as the case may be], and that you have not before voted, either here or elsewhere, at the present election for the county of [or for the city or town or borough of , as the case may be].

"So help you GOD."

No other oath to be taken.

89. Save as aforesaid, it shall not be lawful to require any voter at any election whatever of a member or members to serve in Parliament to take any oath or affirmation, either in proof of his freehold, occupation, or of his residence, age, or other qualification or right to vote, or of his qualification continuing, or of his not owing any cesses, rates, or taxes whatsoever, any law or statute, local or general, to the contrary notwithstanding, nor to reject any vote tendered at such election by any person whose name shall be upon the register of voters in force for the time being, except by reason of its appearing to the returning officer or his deputy, upon putting such questions as aforesaid or either of them, that the person so claiming to vote is not the same person whose name appears on such register as aforesaid, or that he had previously voted at the same election, or except by reason of such person refusing to answer the said questions or either of them, or to take the said oath or make the said affirmation, or to take or make the oath or affirmation against bribery; and no scrutiny shall hereafter be allowed by or before any returning officer with regard to any vote given or tendered at any such election, any law, statute, or usage to the contrary notwithstanding.

Votes not to be rejected, except for reasons here specified.

No scrutiny to be allowed.

Clauses as to personation.

Persons personating voters to be guilty of misdemeanor.

90. If at any election of a member or members to serve in Parliament for any county, city, town, or borough, in Ireland, any person shall knowingly personate and falsely assume to vote in the name of any other person registered under the provisions of the said recited Act to amend the representation of the people of Ireland, or whose name appears on the register of voters then in force for any such county, city, town, or borough

whether such other person shall then be living or dead, or if the name of the said other person be the name of a fictitious person, every such person shall be guilty of a misdemeanor, and on being convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

91. Every person who shall aid, abet, counsel, or procure the commission of any such last-mentioned misdemeanor shall be liable to be indicted and punished as a principal offender.

Aiders and abettors punishable as principals.

92. . . . it shall be lawful for any candidate at any election of a member or members to serve in Parliament for any county, city, town, or borough, in Ireland, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents in his behalf, to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation; and such candidate shall give notice in writing to the returning officer or his respective deputy of the name and address of the person or persons so appointed by him to act as agents for such purpose, and thereupon it shall be lawful for every such agent to attend, during the time of polling, at the booth or booths for which he shall have been so appointed.

Agents to detect personation may be appointed.

93. If at the time any person tenders his vote at such election, or after he has voted, and before he leaves the polling booth, any such agent so appointed as aforesaid shall declare to the returning officer or his respective deputy presiding therein, that he verily believes, and undertakes to prove, that the said person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, then and in every such case it shall be lawful for the said returning officer or his said deputy, and he is hereby required, immediately after such person shall have voted, by word of mouth to order any constable or other peace officer to take the said person so voting into his custody, which said order shall be a sufficient warrant and authority to the said constable or peace officer for so doing: Provided always, that nothing herein contained shall be construed or taken to authorize any returning officer or his deputy to reject the vote of any person who shall answer in the affirmative the questions authorized by this Act to be put to him at the time of polling, and shall take the oaths or make the affirmations authorized and required of him, but the said returning officer or his deputy shall cause the words "protested against for personation" to be placed against the vote of the person so charged with personation when entered in the poll book.

Charges of personation.

94. Every such constable or peace officer shall take the person so in his custody, at the earliest convenient time, before some two justices of the peace acting in and for the county, city, town, or borough, within which the said person shall have so voted as aforesaid: Provided always, that in case the attendance of two such justices as aforesaid cannot be procured within the

Persons charged with personation to be brought before two justices.

space of three hours after the close of the poll on the same day on which such person shall have been so taken into custody, it shall be lawful for the said constable or peace officer, and he is hereby required, at the request of such person so in his custody, to take him before any one justice of the peace acting as aforesaid; and such justice is hereby authorized and required to liberate such person, on his entering into a recognizance, with one sufficient surety, conditioned to appear before any two such justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such justice shall be found within four hours after the closing of the said poll, then such person shall forthwith be discharged from custody: Provided also, that if, in consequence of the absence of such justices as aforesaid, or from any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such justices as aforesaid to inquire into the same on the next or on some other subsequent day, and, if necessary, to issue their warrant for the apprehension of the person so charged.

Offenders may be committed for trial, and witnesses bound over to appear.

95. If on the hearing of the said charge the said two justices shall be satisfied, upon the evidence on oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person within the meaning of this Act, and is not in fact the person in whose name he voted, then it shall be lawful for the said two justices to commit the said offender to the gaol of the county, city, town, or borough, within which the offence was committed, to take his trial according to law, and to bind over the witnesses in their respective recognizances to appear and give evidence on such trial, as in the case of other misdemeanors.

Compensation where charge unjustly made or not prosecuted.

96. If the said justices shall, on the hearing of the said charge, be satisfied that the said person so charged with personation is really and in truth the person in whose name he voted, and that the charge of personation has been made against him without reasonable or just cause, or if the agent so declaring as aforesaid, or some one on his behalf, shall not appear to support such charge before the said justices, then it shall be lawful for the said justices, and they are hereby required, to make an order in writing under their hands on the said agent so declaring as aforesaid to pay to the said person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of ten pounds nor less than five pounds by way of damages and costs; and if the said sum shall not be paid within twenty-four hours after such order shall have been made, then the same shall be levied, by warrant under the hand and seal of any justice of the peace acting as aforesaid, by distress and sale of the goods and chattels of the said agent; and in case no sufficient goods or chattels of the said agent can be found on which such levy can

be made, then the same shall be levied in like manner on the goods and chattels of the candidate by whom such agent was so appointed to act; and in case the said sum shall not be paid or levied in the manner aforesaid, then it shall be lawful for the said person to whom the said sum of money was so ordered to be paid to recover the same from the said agent or candidate, by civil bill, or . . . in an action . . . to be brought in any one of her Majesty's superior courts of record at Dublin: Provided always, that if the person so falsely charged shall have declared to the said justices his consent to accept such sum as aforesaid by way of damages and costs, and if the whole amount of the sum so ordered to be paid shall have been paid or tendered to such person, in every such case, but not otherwise, the said agent, candidate, and every other person shall be released from all actions or other proceedings, civil or criminal, for or in respect of the said charge and apprehension.

97. It shall and may be lawful for the high sheriff of any county, and for the mayor or returning officer of any city, town, or borough, and he and they are hereby required, for the purposes aforesaid, to provide a sufficient attendance of constables or peace officers in each booth at the different polling places within their respective counties, cities, towns, or boroughs.

Attendance of constables at polling places.

[*Ss. 98-102 rep. 35 & 36 Vict. c. 33. s. 32 (temp.).*]

103. Every sheriff, under sheriff, clerk of the peace, town clerk, clerk of the union, high constable, returning officer, clerk of the crown and hanaper, postmaster, or other person or public officer required by this Act to do any matter or thing, shall for every wilful misfeasance or wilful act of commission or omission contrary to this Act forfeit to any party aggrieved the penal sum of one hundred pounds, or such less sum as the jury before whom may be tried any action to be brought for the recovery of the before-mentioned sum shall consider just to be paid to such party, to be recovered by such party . . . by action . . . in any of her Majesty's superior courts in Dublin: Provided always, that nothing herein contained shall be construed to supersede any remedy or action against any returning officer according to any law now in force.

Officers liable to action for breach of duty.

[*Ss. 104, 105 rep. 35 & 36 Vict. c. 33. s. 32 (temp.). S. 106 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

107. For the purpose of facilitating the formation of the register of electors according to the provisions of this Act, the Commissioners for Administering the Laws for the Relief of the Poor in Ireland shall, with all convenient speed after the passing of this Act, cause the name of the barony or half barony within which any townland is situate to be attached to the name of such townland in the existing rate books of each union, and in all future rate books shall cause the name of each barony or

Names of baronies in which townlands are situate to be inserted in rate books.

half barony to be attached to the name of each townland in such barony, where such townland is mentioned in such rate books.

Rate books to be *primâ facie* evidence.

108. For the purpose of this Act the said rate books, or a compared copy thereof or of any part thereof, shall be *primâ facie* evidence of the several matters entered or stated therein, but it shall be lawful for any person who shall have duly served a notice of claim or objection, pursuant to the provisions herein-before contained, to prove by evidence that any of the entries or statements therein is untrue or incorrect, except the statements or entries in such rate books of the value of any lands, tenements, or hereditaments, as to which the same are hereby declared to be conclusive for the purposes of this Act.

Collectors of poor rates, or deputies, to attend to receive poor rates on the days here specified.

109. The respective collector of poor rates shall attend in person, or by a sufficient deputy duly appointed by him by writing under his hand, at some place in each barony (of which he shall give public notice) within the union or part of the union whereof he is collector, during the first day of July, (not being Sunday,) and during the three next preceding days, exclusive of Sunday, or if the first day of July be Sunday then during the four next preceding days in each year, for the purpose of giving receipts for poor rate to any persons requiring the same, and paying the amount of poor rate then payable by them; and the respective collector of poor rate or a sufficient deputy for him as aforesaid shall in like manner attend at a place (of which he shall give public notice) in every such city, town, or borough as aforesaid within the union or part of the union of which he is collector, during the first day of July, (not being Sunday,) and during the three next preceding days, exclusive of Sunday, or if the first day of July be Sunday then during the four next preceding days in each year, for the like purpose; and if any such collector of poor rates shall not return to the clerk of the respective union the names and descriptions of the persons who shall have paid their poor rates, and a statement of the sums respectively paid by them, within the space of two days after the first day of July in any year, or if any such collector shall neglect or refuse to give his assistance to the clerk of the respective union, as by this Act required, in or for the making out the return or list of rated occupiers or the copy of the register in any year for the purposes of this Act, or shall wilfully and without reasonable cause give any false information which may lead to the omission of, or the entering of an objection to, the name of any person entitled to be inserted in such list, or to the insertion of the name of any person not entitled to be inserted therein, such collector shall be liable to a penalty not exceeding ten pounds, to be recovered summarily before any justice of the peace

Occupiers of land or premises valued

110. It shall be lawful for any person who shall occupy any lands, tenements, or hereditaments, rated under the Acts for the

more effectual relief of the destitute poor in Ireland at a net annual value of [1] twelve pounds or upwards in any electoral division in any county, or [1] eight pounds or upwards in any city, town, or borough, in Ireland, in which there shall be a rate for the relief of the destitute poor, and whose name shall have been omitted from such rate, to present to the guardians of the union a claim to be rated in respect of such premises, and such claim shall be in writing, and signed with his name; and upon such occupier so claiming, and actually paying or tendering the full amount of the rate or rates (if any) then due in respect of such premises, the guardians of the union shall insert the name of such occupier in such rate in respect of such premises as aforesaid; and in case such guardians shall neglect or refuse so to do such occupier shall, for the purposes of this Act, be deemed to have been rated in respect of such premises in the rate in respect of which he shall have claimed to be rated as aforesaid.

at 12*l.* in counties, or 8*l.* in towns, may claim to be rated.

111. No person shall be entitled to be registered in any year as a voter in the election of a member or members to serve in Parliament for any county, city, town, or borough, in Ireland, who shall, within twelve calendar months next previous to the twentieth day of July of the current year, have received relief under the Acts for the more effectual relief of the destitute poor in Ireland.

Disqualification by receipt of poor relief.

112. And whereas doubts have arisen as to the proper mode of measuring the distance of seven statute miles in the Representation of the People (Ireland) Act, 1832, and therein prescribed as to the residence of voters for cities, towns, and boroughs, in certain cases: Be it therefore enacted, that the said distance shall be measured in a straight line from the same place within any such city, town, or borough, from which such distance is to be measured according to the directions in that behalf in the said Act: Provided always, that in cases where there is now or shall hereafter be a map of any such city, town, or borough, and of the county or counties surrounding the same, sufficiently extensive for the purpose, drawn or published under the authority and direction of the principal officers of her Majesty's Ordnance, such distance shall be measured and determined by the said map.

Measurement of distances.

2 & 3 Will. 4. c. 88.

113. It shall be sufficient in every case of notice to any person objected to in any list of county, city, town, or borough voters, and also, in the case of county voters, to the occupying tenant whose name and place of abode appears in such respective list as aforesaid, if the notice so required to be given as aforesaid shall be sent by the post, free of postage, or the sum chargeable as postage for the same being first paid, directed to the person to whom the same shall be sent, at his place of abode as described in the said list of voters; and whenever any person shall be desirous of sending any such notice of objection by the post, he shall deliver the same, duly directed, open, and in duplicate, to

Notices of objections, how to be given or sent.

[1 S. 5. of 48 & 49 Vict. c. 3. in effect substitutes ten.]

the postmaster of any post office where money orders are received or paid, within such hours as shall have been previously given notice of at such post office, and under such regulations with respect to the registration of such letters and the fee to be paid for such registration, which fee shall in no case exceed two-pence over and above the ordinary rate of postage, as shall from time to time be made by the Postmaster General in that behalf; and in all cases in which such fee shall have been duly paid the postmaster shall compare the said notice and the duplicate, and, on being satisfied that they are alike in their address and in their contents, shall forward one of them to its address by the post, and shall return the other to the party bringing the same, duly stamped with the stamp of the said post office; and the production by the party who posted such notice of such stamped duplicate shall be evidence of the notice having been given to the person at the place mentioned in such duplicate on the day on which such notice would in the ordinary course of post have been delivered to such place: Provided always, that if no place of abode of the person objected to shall be described in the said list, or if such place of abode shall be situate out of the United Kingdom, then it shall be sufficient if notice shall be given to the clerk of the peace and to such occupying tenant as aforesaid (if any) in the case of a county voter, or, in the case of a city, town, or borough voter, to the town clerk.

Other notices,
how to be
given or sent.

114. Whenever any notice is by this Act required to be given or sent to the clerk of the peace or clerk or clerks of the union or unions, it shall be sufficient if such notice shall be left at his place of abode, or at his office or other place for transacting business, or shall be sent by the post free of postage, or the postage thereof being first paid, addressed to the clerk of the peace, or clerk or clerks of the union or unions; and whenever by this Act any notice is required to be given or sent to any person or persons whatsoever, or public officer, it shall be sufficient if such notice be sent by the post, in the manner and subject to the regulations herein-before provided with respect to sending notices of objection by the post, free of postage, or the postage thereof being first paid, addressed with a sufficient direction to the person or persons to whom the same ought to be given or sent at his or their usual place of abode.

Errors and
misdescrip-
tions not to
prevent opera-
tion of Act,
&c.

115. No misnomer or inaccurate description of any person, place, or thing named or described in any schedule to this Act annexed, or in any rate, list, or copy of register of voters, or in any notice required by this Act, shall in anywise prevent or abridge the operation of this Act with respect to such person, place, or thing, provided that such person, place, or thing shall be so denominated in such schedule, rate, list, copy of register, or notice, as to be commonly understood.

117. In this Act . . . , unless there be something in the subject or context repugnant to such construction, the words "clerk of the peace" shall be construed to include the clerk of the peace, or his deputy, or other person for the time being acting for him, and having the custody of records relating to the registry of parliamentary voters; and the words "assistant barrister" shall apply to and include the chairman of the sessions of the peace of the county of Dublin and his deputy, or any barrister duly appointed as deputy for an assistant barrister; the word "county" shall include a riding of a county; and the words "county of a city," or "county of a town," or "city," or "town," or "borough," respectively, shall include all places situate within the parliamentary boundaries of such city, or town, or borough, and none other; the words "city" or "town" shall respectively include county of a city or county of a town; the expression "high constable" shall include "collector of grand jury cess or county cess"; and the word "town clerk" shall include the deputy of a town clerk duly appointed and acting in that behalf; and the word "barony" shall be construed to include a half barony, and any separate portion of a barony or half barony in a county; and the expression "poor rate" shall be construed to mean a rate made for the more effectual relief of the destitute poor in Ireland, under the Poor Relief (Ireland) Act, 1838, or any Act or Acts amending the same; the expression "last rate" shall be construed to mean the last poor rate for the time being for the union or electoral division made relating to the respective premises; the word "oath" shall include affirmation, where by law such affirmation is required or allowed to be taken in place of an oath; the expression "register for the year" (specifying a year) shall be deemed to refer to the register of voters revised at the revision courts in such specified year; and every word importing the singular number only shall extend and be applied to several persons and things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things.

Interpretation
of terms.

1 & 2 Vict.
c. 56.

[*S. 118 rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

119. Nothing herein contained shall extend to the borough of the University of Dublin.

Act not to
extend to
University of
Dublin.

[*S. 120 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[*Schedules rep. 54 & 55 Vict. c. 67. (S.L.R.)*]

CHAPTER LXXIII.

AN ACT to amend the Law relating to Proceedings by Process of Attachment of Goods in the Borough and other Courts of Record in Ireland. *13 & 14 V. c. 73.* [14th August 1850.]

[*Preamble recites 3 & 4 Vict. c. 108, as to procedure by attachment in borough courts of record.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

No attachment to issue out of any borough court unless debt, &c. exceeds 20*l*.

2. It shall not be lawful for any person to proceed in any such court of record in Ireland by way of attachment of goods to compel appearance, or by way of foreign attachment, where the debt or damages sought to be recovered in such action, and sworn to be due, shall not exceed the sum of twenty pounds.

Affidavit, where plaintiff desires to proceed by attachment of goods, &c.

3. In all cases of debt or liquidated damages where the sum sought to be recovered and sworn to in such action shall exceed the sum of twenty pounds, and in which the plaintiff shall be desirous of proceeding in any such court of record by attachment of goods, in addition to the statements now by law required to be made in the affidavit to be sworn and filed by or on behalf of the plaintiff or plaintiffs before the issuing of any writ of attachment of goods to compel appearance, it shall be necessary to show by such affidavit that there is probable cause for believing that the defendant is about to abscond or to quit Ireland, or to remove, conceal, assign, or otherwise dispose of his goods or chattels, with intent to defraud his creditors.

Goods seized by attachment shall not be removed for 4 days, or such shorter time as defendant shall require.

What special bail by defendant shall be sufficient.

4. In all cases in which goods shall be seized under or by virtue of any such attachment, the same shall not be removed off the defendant's premises, if seized thereon, until the expiration of such a period of time, not exceeding four days, as the said defendant, by notice in writing to be delivered to the bailiffs or other persons who shall have seized the same, shall require; and it shall be sufficient, instead of giving special bail to pay such sum of money as may be adjudged to the plaintiff, as by the said recited Act or otherwise required, that special bail shall be given by the defendant to pay all such debt, damages, expences, and costs, as shall be adjudged in that cause to the plaintiff against the defendant, or to render the body of the defendant into the custody of the marshal of the Marshalsea of the Four Courts of the City of Dublin, in case the action shall be pending in the court of the borough of Dublin, or other prison, as herein-after provided, of the court out of which such attachment shall issue, as the case may be.

When goods are seized under attachment, plaintiff may proceed to obtain judgment.

5. In every case in which the goods of any defendant shall be seized under any such attachment, and the defendant shall not give special bail in manner aforesaid within the time now limited by law for appearing to such action or giving special bail, or according to the course of the court, it shall be lawful for the

plaintiff in such action, upon filing a certificate of the marshal or other officer of the court having the custody of the goods so attached that the same are in his custody for want of special bail, to enter an appearance or file common bail for the defendant, and thereupon to serve on the defendant notice of such appearance having been entered or common bail filed, by leaving with him or at his usual place of abode a copy of such notice, and such service shall be verified on oath in such manner as the court shall direct, and the plaintiff may thereupon proceed to obtain judgment, according to the course of the court, as if an appearance had been duly entered by the defendant.

6. Provided always, that it shall be lawful for any defendant to procure the goods which shall have been seized under an attachment, and before the removal thereof, to be appraised, (the appraisement to be made by such person or persons, and in such manner, and within such time, as the court shall by any general or special order direct,) and the expences of such appraisement shall be defrayed in the first instance by the defendant, but shall be costs in the cause, and abide the event of the suit; and in case the goods seized shall amount in value to less than the sum for which the attachment issued, it shall be sufficient for the defendant to give special bail (in double the amount of the appraised value of the goods) to pay all such debt, damages, expences, and costs, as shall be adjudged in such cause to the plaintiff against the defendant, or to render the body of the defendant into the custody of the marshal of the Marshalsea of the Four Courts of the City of Dublin, in case such action shall be pending in the said court of the borough of Dublin, or other prison, as herein-after provided, of the court out of which such attachment shall issue, as the case may be.

Power to defendant to get seized goods appraised, and give bail to double the amount of the appraisement.

7. Provided also, that in all cases in which the attachment shall have issued out of the court of record of the borough of Dublin, the defendant who shall have been held to special bail as aforesaid may be rendered in discharge of his bail to the marshal of the Marshalsea of the Four Courts of the City of Dublin; and in all cases in which the attachment shall have issued out of any other borough or other court than the borough court of Dublin, the defendant may be rendered in discharge of his bail to the Marshalsea or other prison of the borough or other court by which his goods were attached, and if there be no such prison of any such borough or other court, then to the common gaol of the county in which such borough, town, or place, or such part thereof in which his goods were attached, shall be situate; and the render to the said Marshalsea or gaol shall be effected in the manner following, that is to say, the defendant or his bail, or one of them, shall for the purpose of such render obtain an order of the court out of which the writ of attachment issued, and shall lodge such order with the said marshal, or with the gaoler of such prison or gaol, (as the case may be,) and a notice in

Mode of surrender in discharge of bail.

writing of the lodgment of such order, and of the defendant's being actually in custody of such marshal or gaoler by virtue of such order, signed by the defendant or the bail, or either of them, or by the attorney of any or either of them, shall be delivered to the plaintiff's attorney, and the marshal or sheriff, or other person responsible for the custody of debtors in such Marshalsea, prison, or gaol, shall on such render so perfected be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

Mode of surrender of a defendant in custody when his goods are seized, who gives special bail.

8. A defendant who shall at any time be in custody of the marshal of the said Marshalsea, or of the gaoler of the prison or gaol of any county, county of a city, or county of a town in Ireland, at the time of the seizure of his goods, under any writ of attachment out of any such borough or other court, may give such special bail, and thereupon may forthwith be rendered to such marshal or gaoler of the prison or gaol in which such defendant shall then be in custody, in discharge of his said bail in any action in such court of record, in the manner hereinbefore provided for a render in discharge of bail, and the marshal or sheriff or other person responsible for the custody of debtors in such Marshalsea, prison, or gaol shall, on such render, be charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

Costs where judgment does not exceed 20l.

9. If the plaintiff in any such proceeding by way of attachment shall not obtain judgment for debt or damages for a sum exceeding twenty pounds, he shall not be entitled to any costs, but the defendant shall be entitled to recover his costs from the plaintiff, unless the judge of the court from which attachment shall have issued shall, within one month after final judgment, certify that the plaintiff had reasonable cause for filing an affidavit of debt for the full amount for which such attachment issued; and in case any such defendant shall be entitled to his costs from the plaintiff as aforesaid, the court shall, by a general or special order, limit the period within which the defendant shall have the amount of such costs taxed and ascertained, and until the expiration of such period, unless the defendant's costs shall be taxed and ascertained in the meantime, the plaintiff shall be disabled from taking out any execution for the sum recovered by the judgment; and in case the defendant's costs shall be ascertained within the period aforesaid, the plaintiff shall take out execution in such sum only by which the amount of the judgment shall exceed the amount of the taxed costs of the defendant; and in such case, if the sum recovered by the judgment shall be less than the amount of the defendant's taxed costs, then the defendant shall be entitled, after deducting the amount of the judgment from the amount of his taxed costs, to take out execution for the balance of his taxed costs, in like manner as a defendant in any such court may now have execution for costs in other cases, or in such manner as such court may, by a general or any special order, direct.

10. All affidavits which may now be made before the recorder, or mayor . . . of any borough, or of any such other court, and all other affidavits in proceedings relating to attachments or foreign attachments in any of the borough or other courts of record in Ireland, may be sworn before the town clerk or the registrar or deputy registrar of any such borough or other court . . . whether such affidavit is intended to be filed in the court of which such town clerk, registrar or deputy registrar, or commissioner, is an officer, or in any other such court in Ireland; and all proceedings thereupon or in reference thereto shall be as valid and regular as if the same had been sworn before the recorder or mayor . . . of the borough or court in which the same shall be filed; and any person who shall wilfully and corruptly make and subscribe any such affidavit, knowing the same to be untrue, shall be deemed guilty of perjury, and be liable to be prosecuted and punished accordingly.

Before whom
affidavits may
be sworn.

[S. 11 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

12. In the construction of this Act words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number, and words importing the masculine gender only shall include females, unless there be something in the subject or the context repugnant to or inconsistent with such construction.

Interpretation
of terms.

[Ss. 13, 14 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXXIV.

AN ACT for the better Regulation of the Office of Registrar of Judgments in Ireland. [14th August 1850.]

[*Preamble.*]

[Ss. 1—3 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

4. There shall be granted, raised, levied, collected, and paid in Ireland, unto her Majesty, for and in respect of the several instruments, articles, matters, and things, mentioned, enumerated, and described in the schedule to this Act annexed, the several sums of money and duties as they are respectively set forth, inserted, and described in words and figures in the said schedule and in every part thereof, over and above and in addition to any stamp duties or other duties payable or to be payable by law for or in respect of the said several matters and things or any of them; and the said schedule, and every clause, matter, and thing therein contained, shall be and be deemed, taken, and considered part of this Act.

Duties of
stamps in re-
spect of instru-
ments, &c., in
schedule to be
paid in addition
to other duties
payable by
law.

[S. 5 *rep.* 41 & 42 *Vict. c.* 79. (S.L.R.)]

6. . . . the duties hereby granted shall be under the care and management of the Commissioners of Inland Revenue, who

Duties to be
under manage-
ment of

Commissioners of Inland Revenue. shall keep a distinct account thereof, and shall be denoted and distinguished by the words "Judgments Registry," and shall be deemed and construed to be stamp duties, and the several rules, regulations, provisions, penalties, clauses, and matters contained in any Act now or hereafter to be in force with reference to stamp duties shall be applicable thereto.

[*S. 7 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 8 local and personal.*
S. 9 rep. 54 & 55 Vict. c. 67. (S.L.R.)]

Certificates of registry, &c. of judgments.

10. Upon the lodgment of any memorandum for the registry or re-entry of any judgment or revival, decree, rule, order, crown bond, recognizance, or *lis pendens*, or of any satisfaction, vacate, or *quietus*, in the said office, the said registrar of judgments shall thereupon give a certificate signed by him of such registry or re-entry, with a reference to the books of the office, whereby the entry thereof may be readily found, and which certificate shall contain such particulars as may be necessary for identification, and shall be evidence of such registry or re-entry; and it shall be lawful for the said registrar, and he is hereby required, whenever thereunto requested, to give a like certificate, containing the like particulars, of any judgment or revival, decree, rule, order, crown bond, recognizance, *lis pendens*, or of any satisfaction, vacate, or *quietus*, registered at any time in his said office or contained in the books thereof; and for every such certificate the said registrar shall be entitled to receive a fee of sixpence, and no more.

Costs of registration of judgments, &c.

11. All costs properly incurred in the registration of judgments, warrants to confess judgments, pleas of confession, and consents for judgment, in pursuance of the several Acts now in force concerning the same or any of them, shall in each and every case respectively be allowed in taxation of costs of suit against the cognizor or defendant, and be added to and charged and recoverable in like manner and together with the amount of the judgment so registered, or of any judgment entered or to be entered upon any warrant of attorney, plea of confession, or consent for judgment, so registered as aforesaid.

Registrar of judgments of be an officer of the Court of Chancery, and of each court of common law.

12. The said registrar of judgments shall be and be deemed to be an officer of the Court of Chancery, and of each of the superior courts of common law, and subject to the orders of the said courts respectively, in all matters transacted in his office, and all entries made or to be made in the books thereof, exclusively relating to or connected with the business or records of such courts respectively, or of the offices thereof respectively.

[*S. 13 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

SCHEDULE to which this Act refers. Sect. 4.

DUTIES of stamps which are to be paid and payable in Ireland for and in respect of several instruments, matters, and things herein mentioned, used, filed, registered, recorded, or issued, in the office of registrar of judgments.	
On every memorandum for the registration of any judgment or rule for judgment, or for the registration of any decree, order, or rule, according to the directions of the Act 7 & 8 Vict. c. 90. - - - - -	s. d. 5 0
On every memorandum for the re-entry of any judgment, decree, order, or rule, according to the provisions of the said Act - - - - -	1 0
On every memorandum for the registration of any lis pendens, according to the provisions of the said Act - - - - -	2 6
On every memorandum for the re-entry of any lis pendens, according to the provisions of the said Act - - - - -	1 0
On every memorandum for the registration of any recognizance, bond, judgment, or other obligation to the crown, or of any quietus thereof, according to the provisions of the said Act - - - - -	2 6
On every requisition for liberty to search in the books of the said office, according to the provisions of the said Act, and without which requisition no such search is to be permitted; for each person searched against - - - - -	1 0
On every memorandum for the registration of the satisfaction or vacate of any judgment, crown bond, or recognizance, decree, rule, or order, for the re-docketing of any crown bonds or recognizances, according to the provisions of the Act 11 & 12 Vict. c. 120. - - - - -	2 6
On every requisition for liberty to search the books containing recorded copies of the negative searches in the said office, according to the provisions of the said Act, and without which requisition no such search is to be permitted; for each person searched against - - - - -	1 0
On every attested copy of a search recorded pursuant to the said Act, when such copy shall not exceed three folios of seventy-two words - - - - -	1 0
When such copy shall exceed three folios, for every folio - - - - -	0 4

CHAPTER LXXXI.

An Act to explain an Act of the last Session for amending an Act for the Regulation of Municipal Corporations in Ireland so far as relates to the Borough of Dublin.

[14th August 1850.]

[*Preamble recites 3 & 4 Vict. c. 108.; 12 & 13 Vict. c. 85.*]

And whereas by the said first-recited Act it was amongst other 3 & 4 Vict. things enacted, in regard to certain of the cesses, rates, and taxes c. 108. s. 31. therein mentioned, that such cess, rate, or tax should not, for the purposes aforesaid of the said Act, be deemed to have become

payable until after the completion of the publication of a certain notice therein mentioned, and not before. . . .

Notice as to certain taxes payable under 3 & 4 Vict. c. 108. not to apply to taxes specified in schedule of 12 & 13 Vict. c. 85.

[1.] The said recited enactment of the said first-recited Act, as to any such notice as aforesaid, or the publication thereof, shall be deemed and construed not to extend or apply and not to have extended or applied, and the same shall not extend or apply, to any of the rates, cesses, or taxes specified in the schedule annexed to the said secondly-recited Act.

[*S. 2 rep. 57 & 58 Vict. c. 56. (S.L.R.)*]

CHAPTER LXXXII.

AN ACT to extend the Remedies for the Collection of Grand Jury Cess in Ireland.^[1] [14th August 1850.]

[*Preamble recites 6 & 7 Will. 4. c. 116. s. 152, authorizing levy of grand jury cess by distress.*]

Grand jury cess may be levied by distress and sale.

[1.] Such power of distress and sale by the said recited Act, or any Act amending the same, provided for the collection and levying of grand jury cess in Ireland shall be extended as follows; that is to say, any such grand jury cess may be levied by distress and sale of any goods and chattels which may be found on the premises chargeable therewith, (save and except any goods and chattels which, if such distress were for rent reserved on a lease for a term for years, would be exempt from such distress,) rendering to the owner of such goods and chattels the overplus, if any, after deducting the expences of distraining.

Construction.

2. The said recited Act and this Act shall be construed together as one Act.

[*S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER LXXXIII.

AN ACT to facilitate the Abandonment of Railways, and the Dissolution of Railway Companies, in certain cases.^[2]

[14th August 1850.]

[*Preamble.*]

Application by railway company to

[1.] If any company authorized by Act of Parliament heretofore passed to make a railway desire that the making and

^[1] Extended to the county of Dublin, 19 & 20 Vict. c. 63. s. 9.]

^[2] Short title, "The Abandonment of Railways Act, 1850." See s. 39.]

carrying on of such railway or some part thereof, whether commenced or not, be abandoned, such company may, by the authority and with the consent of the holders of three-fifths of the shares or stock of such company represented in manner herein-after mentioned at a general meeting of shareholders to be convened in manner herein-after mentioned, make application in writing to the Commissioners of Railways, setting forth the particulars of the railway or portion of the railway desired to be abandoned by them, and the grounds upon which such application is made.

Commissioners
to be allowed to
abandon their
undertaking.

2. It shall be lawful for the directors of any such railway company at any time to call a meeting of the shareholders thereof for the purpose of determining whether such application shall be made to the Commissioners of Railways, and so from time to time as they shall see fit.

Meeting to
consider
application.

3. It shall be lawful for any number of shareholders of any such company, not being less than five, and holding in the aggregate not less than one twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, but exclusive of any shares or stock held by or in the names of the directors of the company or any of them, or by or in the name of any person in trust for the directors or any of them, or for the company, and which shareholders shall have paid all the calls then due on the shares held by them, by writing under their hands to require the directors of such company to call a meeting for the purpose aforesaid; and upon the receipt of any such requisition such directors shall forthwith proceed to call a meeting of the shareholders of such company on a day to be named by them, not being less than fourteen nor more than twenty-eight days after the receipt of such requisition: Provided always, on the default of the directors to call and advertise such meeting within fourteen days after the receipt of the requisition, it shall be lawful for the requisitionists to call such meeting themselves, at a time and place to be appointed by them, of which fourteen days notice shall be given by them by advertisement, as herein-after provided: Provided also, that when any meeting of any such company shall have been called pursuant to any such requisition as aforesaid, the directors of such company shall not be required to call any further meeting of such company upon any further requisition for the like object until twelve months shall have elapsed since the holding of such previous meeting.

Shareholders
may require
directors to
call a meeting.

4. After any such meeting has been called by the directors, or after the receipt of any such requisition as aforesaid, it shall not be lawful for the directors to make any payments out of the monies of the company for the purposes of the railway proposed to be abandoned, except in discharge of bonâ fide debts or liabilities, or in performance of contracts or engagements previously entered into, and in payment of the expenses

After calling
of meeting, or
receipt of
requisition,
directors not
to make any
payments, &c. |
with respect to.

railway proposed to be abandoned.

of calling and holding such meeting, nor to enter into any contracts or engagements on behalf of the company with respect to the railway so proposed to be abandoned, nor to make any calls, nor to register the transfer of any shares, until the meeting called as aforesaid shall have determined whether such application shall be made

Mode of calling the meeting, and signifying the assent or dissent of the shareholders to or from the application.

5. The calling of any such meeting shall be by public advertisement, in the manner required or usually adopted for advertising the extraordinary general meetings of such company; and where such meeting is called by the directors of the company, a circular letter shall be sent by the post addressed to each of the registered shareholders of such company, according to his registered address or other known address, seven clear days at least before the holding of such meeting, and stating that a general meeting of the shareholders of such company will be held at a time and place mentioned in such circular, for the purpose of determining whether application shall be made to the Commissioners of Railways that such railway or the part thereof specified in such notice may be abandoned, and requesting such shareholder to signify his assent to or dissent therefrom, which may be according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto, and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof; and in the case of every such meeting, whether called by the directors or by such requisitionists as aforesaid, the shareholders may signify their assent to or dissent from the proposed application, either by attending such meeting in person, or by letter, addressed to the secretary of the company, stating the assent or dissent of such shareholders, in a form which shall be to the effect of the form set forth in the schedule hereto, and signed by such shareholders respectively.

Scrutiny of number of shares held by the shareholders assenting and dissenting.

6. At the meeting so to be called as aforesaid the scrutineers to be appointed as herein-after mentioned shall cast up the amount of shares held by shareholders assenting to the making of such application, and the amount of shares held by shareholders dissenting therefrom, whether such assent or dissent have been signified by the shareholder sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof, and such scrutineers shall report to the chairman the amount of shares of the shareholders assenting to such application, and the amount of the shares of those dissenting therefrom, and the said chairman shall thereupon publicly announce to the meeting the said amounts respectively, and shall state whether or not the holders of three fifths of the whole of such shares represented in manner

aforesaid at the meeting consent to such application: Provided always, that in computing the amount of shares of the shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have been duly registered, or who shall not have paid all the calls then due by him upon all the shares held by him, unless such calls shall have been made within three months prior to the holding of such meeting, or, if such meeting be held pursuant to a requisition of shareholders as herein-before provided, then three months prior to the day on which such requisition was presented to the directors.

7. The chairman of the directors of such company, if present, or in his absence the deputy chairman, if any, of such directors, shall be the chairman of such meeting as aforesaid, or, if neither such chairman nor deputy chairman of the directors be present, any shareholder chosen for that purpose by a majority of the shareholders present at the meeting shall be the chairman thereof.

Chairman of the meeting.

8. At every such meeting the shareholders present thereat shall elect three shareholders of the company to be scrutineers for the purposes aforesaid, and in electing such scrutineers each shareholder shall have one vote only, and shall vote for one scrutineer only; and the decision of such scrutineers, or of any two of them, upon any of the matters hereby intrusted to them, shall be final in all respects.

Meeting to elect scrutineers.

9. For the purpose of receiving the report of the said scrutineers the chairman of such meeting may, if he think fit, or the application of any one of such scrutineers, and he shall, if required by more than one of such scrutineers, adjourn such meeting to some time to be appointed by him, not less than one clear day nor more than seven clear days from the day of holding such meeting.

Adjournment of meeting on application of scrutineers.

10. A certificate under the hand of the chairman of the meeting, stating that such meeting as aforesaid has been duly held, and such consent given as aforesaid in cases where the same is given, shall within one week after the day of holding such meeting be deposited in the office of the said Commissioners of Railways

Certificate of holding of meeting.

11. Provided always, that if it appear to any of the shareholders of any such company who shall have signed any such requisition, or been present at any such meeting as aforesaid at which the proposal to apply to the said commissioners to authorize the abandonment of the whole or part of a railway shall have been negatived or alleged to be negatived, either that such meeting was not duly called, or that the sense thereof was not duly taken according to the true intent and meaning of this Act, and that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application would have been given, it shall be lawful

Application by shareholders favouring abandonment against validity of meeting.

for any such shareholders not being less in number than five, and holding in the aggregate not less than one twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, and which shareholders shall have paid all the calls then due on the shares held by them, to apply to the said commissioners, setting forth in writing the grounds on which they complain of the decision alleged to have been come to at such meeting as aforesaid, and praying that a further meeting may be called; and if it appear to the said commissioners, (after hearing the parties complained of, if they desire to be heard,) that there is good reason to believe that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, the said commissioners shall certify their judgment to that effect, and shall direct a further meeting to be called by the directors of such company at the time and place to be appointed by the said commissioners; and the said directors shall call such meeting accordingly, or in default thereof it shall be lawful for the shareholders who complained to the said commissioners of the proceedings of the former meeting to call such meeting, and all the provisions of this Act shall apply to any further meeting so directed to be called, in like manner as to any original meeting herein-before authorized or required to be called.

If meeting determine that application shall be made, or if commissioners certify, the directors not to proceed with works proposed to be abandoned until after, or otherwise than in accordance with, the decision of the commissioners.

12. If at any such meeting any railway company shall determine, as herein-before mentioned, that such application as aforesaid shall be made, or if the said commissioners shall certify as aforesaid their judgment that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, then, as from the date of the resolution so come to at such meeting, or the date of the said certificate, as the case may be, the directors of such company shall not have power to proceed any further with the making of the railway, or the part thereof so proposed to be abandoned, until the decision of the Commissioners of Railways with respect to such application be made, and then only in accordance with such decision.

Commissioners of Railways, if they think that there are grounds for entertaining the application, shall direct the company to give notice of application having been made.

13. If it appear to the said commissioners that there are sufficient grounds for entertaining such application, the said commissioners shall require and direct the company making the same to give notice of such application having been made, by advertisement, inserted, in a form to be approved of by the said commissioners, once in the London, Edinburgh, or Dublin Gazette, according as the railway or part of the railway proposed to be abandoned is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part proposed to be abandoned of such railway is situated, and

affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway, where the whole is proposed to be abandoned, or in which any part proposed to be abandoned, is situate, and in Ireland such notice shall also be affixed to the Roman Catholic chapel, and, where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed abandonment, and who desires to object thereto, may bring such objection before the commissioners.

14. For the purpose of ascertaining the state and condition of the company making any such application, and of inquiring into the expediency of the proposed abandonment of railway, and of determining the terms and conditions on which the same may be authorized by them, it shall be lawful for the Commissioners of Railways, by themselves or by any officer appointed and specially empowered by them for that purpose, to inspect the books of accounts, minutes of proceedings, or any other books, papers, or documents, in the possession or control of such company, and also, if they see fit so to do, to send, at the expence of such railway company, or at the expence of any person who applies to them for that purpose, an officer, to be appointed by them, to inspect the railway or proposed railway or work so proposed to be abandoned, and to collect evidence on the spot relative to such abandonment; and if any such company, or any of their officers or servants, shall refuse such inspection by the said commissioners, or any officer appointed and specially empowered by them for that purpose, or refuse or wilfully neglect to produce to the said commissioners or any such officer, on demand, any books, papers, or documents in the possession or control of such company, every such company shall for every such refusal or neglect forfeit to her Majesty the sum of twenty pounds, and a further sum of five pounds for every day during which such refusal or wilful neglect shall be continued.

Commissioners to have power to inspect the company's books and other documents, and to send an officer for local inspection.

15. Upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all the objections, if any, brought before them, the said commissioners may, if they think fit, and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two or more of the said commissioners, authorize the abandonment of the railway or portion of railway described in such warrant.

Commissioners of Railways may authorize the abandonment of the railway or part.

16. Provided always, that in considering the objections which may be made by any of the shareholders of any railway company to the proposed abandonment of a part only of the railway of such company, and in determining the terms and

In considering objections of shareholders to partial abandonment,

commissioners to have regard to local circumstances.

Power to commissioners, in any order for reducing the capital of the company, to reduce or cancel the shares of the objectors in certain cases.

conditions on which the said commissioners may think fit to authorize any such partial abandonment, the said commissioners shall have regard to the local situation of the lands and residences of the shareholders so objecting, with reference to the portion of railway proposed to be abandoned; and in the case of any such shareholders being original subscribers to the undertaking, and not being solicitors, agents, or engineers employed in promoting the same, and whose places of residence or lands are adjoining or near the line of the portion of railway so proposed to be abandoned, it shall be lawful for the said commissioners, if they think fit so to do, in any direction which (under the provision herein-after contained) they may give for reducing the capital of the company authorized to construct such railway, to provide at the request of any such last-mentioned shareholders, that the nominal amount of the shares held by them in such company may be reduced to the amount then already paid up by them respectively, or to such other extent as the said commissioners may think fit to order in that behalf, or the said commissioners may, at the like request, direct any such shares to be cancelled, and a part of the monies that may have been paid up in respect of such shares, bearing such proportion to the whole as the said commissioners, having regard to all the circumstances of the case, shall think fit to determine, to be repaid to such shareholders.

Notice of warrant of abandonment to be given, and persons having claims for compensation, &c. to be required to send them in.

17. Within one month after the day on which any such warrant as aforesaid is granted by the said commissioners, the railway company to which the same applies shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin Gazette, according as the railway or part of railway mentioned therein is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such abandoned railway is situate, and to be affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway is situate, and in Ireland such notice shall also be affixed to the Roman Catholic chapel, and, where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every such notice shall require all persons having any claims or demands upon the said company for compensation or otherwise, by reason of the abandonment of railway authorized by such warrant to transmit the statement of such claims or demands to the secretary of such company, at the office or usual place of business of the same company, within four months from the date of such warrant.

Certificate of due publication of the notice of the warrant.

18. Upon proof to the satisfaction of the said commissioners that notice of such warrant has been duly published in manner herein-before required, the said commissioners shall certify the same accordingly; and such certificate shall be received in all

courts of justice or elsewhere as evidence that such notice was duly published as aforesaid.

19. After the granting of any such warrant, and the publication of such notice thereof as aforesaid, the company shall (subject to the provisions herein-after contained) be released from all liability to make, maintain, or work the railway mentioned in such warrant, or the part thereof thereby authorized to be abandoned, or to purchase any of the lands required for the making thereof, or to complete the purchase of any such lands for the purchase of which notice may have been given, or any contract entered into, by or on behalf of the company, or to complete any contract for or concerning the making, maintaining, or working of the railway so to be abandoned, or any other contract relating to the railway or part of railway so authorized to be abandoned, which by reason of such abandonment cannot be performed: Provided always, that nothing in this Act contained shall extend to release the company from any liability to complete the purchase of any land for the purchase of which any contract may have been entered into by or on behalf of the company, and which contract may have been in part performed, or by virtue or in pursuance of which a specified sum or price as the consideration for the purchase of lands thereby agreed to be sold to or taken by the company shall have been fixed or ascertained previously to the passing of this Act notwithstanding the time for the completion of the purchase named in such contract shall have been subsequently extended by agreement or arrangement with the company.

After the granting of warrant, the company to be released from liability to make the railway or part thereof authorized to be abandoned, &c.

20. Provided always, that in every case in which before the granting of any such warrant any notice hath been given or contract entered into by or on behalf of the company named therein for purchasing any lands which such company were by the Acts relating thereto empowered to purchase for the purpose of constructing the railway or portion of railway so authorized to be abandoned, and from which contract such company would be relieved under the provisions herein-before contained, or where any contract hath been entered into for or concerning the constructing, maintaining, or working of the railway or part of railway so authorized to be abandoned, or any other contract relating thereto, which by reason of such abandonment cannot be performed, the company shall make to the owners or occupiers of and other parties interested in such lands, or being parties to such contracts as aforesaid, compensation, to be determined by arbitration as herein-after mentioned, for all injury or damage, if any, sustained by such owners, occupiers, and other parties, by reason of such purchase not being completed pursuant to such notice, or by reason of such contract not being performed.

Where contracts have been entered into or notices given, compensation to be made for non-completion.

21. Where any railway or part of a railway so authorized to be abandoned shall have been then made or commenced, such

Compensation to adjoining landowners in

lieu of accommodation works, where railway has been commenced.

company shall make to the owners and occupiers of the lands adjoining the railway or part of a railway so commenced or made, and authorized to be abandoned, compensation, to be determined by arbitration as herein-after mentioned, for all such injury or damage, if any, as shall be sustained by such owners or occupiers by reason of the omission to make gates, passages, drains, watercourses, bridges, and such other works for the accommodation of lands adjoining the railway as such company would have been required to make if such railway had not been allowed to be abandoned.

Where any road has been carried across an abandoned line of railway by means of a bridge or tunnel, the company to pay a sum in discharge of their liability to keep the bridge, &c. in repair.

~~22. Where the line of any railway so authorized to be abandoned shall have been wholly or partially laid out, and any road shall have been carried across such line of railway by means of a bridge or tunnel over or under such railway, which bridge or tunnel the company to whom such railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such case, except where such bridge or tunnel shall, with the permission of the said commissioners, be by such company removed, and such road restored to the like or an equally convenient and good state as the same was in before it was interfered with by the makers of such railway, to the satisfaction (in case of difference between such company and the owner or persons having the management of such road) of the Commissioners of Railways, such company shall pay to the owner of such road, if it be a private road, or to the trustees, surveyors of highways, or other persons having the management of such road, if it be a turnpike or other public road, a sum of money, to be determined by arbitration as after mentioned, in lieu and discharge of their liability to keep such bridge or tunnel, and also the roadway over the same, in repair.~~

Investment and application of sums so paid to trustees and overseers of public roads.

~~23. Every sum to be paid as last aforesaid to such trustees, surveyors, or other persons as aforesaid shall be by them forthwith paid over to the treasurer of the county where the bridge or tunnel in respect of which such sum was paid is situate, and shall be by him invested in consolidated bank annuities or other public securities, and the dividends or income thereof shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the justices in quarter sessions having jurisdiction where such bridge or tunnel is situate shall order.~~

Investment and application of sums so paid in Scotland.

24. Every sum so to be paid as last aforesaid in Scotland to such trustees or other persons as aforesaid shall be by them paid into bank, and the interest to arise thereon shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the sheriff of the county in which such

bridge or tunnel is situate, in case of any difficulty arising, shall direct.

25. The amount of compensation so to be made in the several cases aforesaid shall be determined, in case of difference, by arbitration, in the manner provided by the Railways Clauses Consolidation Act, 1845, or the Railways Clauses Consolidation (Scotland) Act, 1845, as the case may require, and for that purpose all the clauses of the said Railways Clauses Consolidation Acts with respect to the settlement of disputes by arbitration shall be deemed to be incorporated with this Act: Provided always, that no such railway company shall be liable to make any compensation in respect of damage alleged to have been sustained by reason of the abandonment of the railway or part of the railway, or the non-completion of any contract of such company in any of the cases aforesaid, unless the claim for such compensation shall have been made within six months after the publication in the Gazette of the notice of the warrant for such abandonment, as herein-before provided.

Amount of compensation to be settled by arbitration.
8 & 9 Vict. c. 20.
8 & 9 Vict. c. 33.

26. Provided also, that the authority so as aforesaid given for abandoning the making of any such railway or part of a railway shall not prejudice or affect the right of the owner or occupier of any lands to receive from such company compensation for any damage that may have been occasioned by the entry of such company upon such lands, for the purpose of surveying and taking levels, and of probing or boring to ascertain the nature of the soil, or of setting out the line of the railway, pursuant to the provisions for that purpose in the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation (Scotland) Act, 1845, contained.

Company to be still liable for damage occasioned by their entry on lands, &c.

8 & 9 Vict. c. 18.
8 & 9 Vict. c. 19.

27. All the lands acquired by such company for the purposes of the railway or part of railway so authorized to be abandoned shall be sold by such company within the time limited or prescribed for that purpose in the warrant authorizing the abandonment of such railway, and if no time be therein prescribed for that purpose, then within two years, from the date of such warrant, in the manner prescribed by the said Lands Clauses Consolidation Acts with respect to the sale of superfluous lands; and for that purpose all the clauses of the said last-mentioned Acts with respect to the lands acquired by the promoters of the undertaking under the provisions of their special Act, but which are not required for the purposes thereof, shall be deemed to be incorporated with this Act: Provided always, that the offer to be made by the railway company, pursuant to the said Acts, to sell such lands to the person entitled to the lands from which the same were severed, shall be made at a price or sum not greater than the price or sum at which such lands were purchased by such company.

Lands purchased by the railway company to be sold as superfluous lands.

28. When the said Commissioners of Railways, by any such warrant as aforesaid, authorize the abandonment of a part only

Reduction of capital on abandonment.

of the railway of any railway company, they may, if they think fit, require that the capital authorized to be raised by such company in respect of such railway shall be reduced to such extent and in such manner as the said commissioners think fit, and so that such reduction do not bear a greater proportion to the whole capital so authorized to be raised than the cost of the part of the railway so authorized to be abandoned would have borne to the cost of the whole railway; and they may also, if they think fit, in like manner reduce the amount which such company are authorized to borrow on mortgage or bond, and every such reduction shall be expressed in the said warrant; and in every such case the capital of such company, and their power of borrowing money, shall be reduced and limited in conformity with the directions for that purpose contained in such warrant; and such company shall have all the same powers for enforcing the payment of calls in respect of the shares in the capital when reduced in the manner required by the said commissioners, and for enforcing the forfeiture of any such shares in default of payment of such calls, as such company would have had in respect of the original capital of such company if this Act had not been passed: Provided always, that nothing herein contained shall authorize the said company to reduce or interfere with any amount of capital paid up or called for before the eleventh day of February one thousand eight hundred and fifty, and entitled to any preferential or guaranteed dividend or interest.

On abandonment of the whole railway, powers of company to cease.

29. After the granting of any such warrant as aforesaid for the abandonment of the whole railway of any railway company, the powers of such company for the construction, maintenance, and management of such railway shall cease, and such company shall continue to exist only for the purpose of winding up their affairs, . . .

[*Ss. 30-33 (empowering any shareholder after grant of a warrant of abandonment of the whole railway to present a petition to wind up the company in England or Ireland, and to sequester the company in Scotland) rep. 32 & 33 Vict. c. 114. s. 10.*]

In case of petition for winding up, landowners, &c. entitled to compensation to be deemed creditors.

34. In the event of the affairs of any such company being wound up under any such petition, the compensation herein-before directed to be given to the owners and occupiers of lands and others in respect of the damage sustained by them by reason of such abandonment in the cases herein-before mentioned, or by reason of the non-completion of any such contract as aforesaid, or otherwise, shall be deemed a demand claimed from, and when ascertained in the manner provided by this Act a debt due from, such company, and the party by whom such compensation is claimed shall be deemed a "creditor," in England or Ireland, within the provisions of the^[1] said Joint Stock Companies Winding-up Act, or, in Scotland, within the provisions of the^[2] said recited Act of the second and third years of the reign of her present

[¹ 11 & 12 Vict. c. 45. referred to in s. 31.]

[² 2 & 3 Vict. c. 41. referred to in s. 33.]

Majesty; and in case any lands purchased by such railway company shall be sold by the official manager under the said Act, they shall be sold in the manner and subject to the provisions contained in this Act.

35. Provided always, that this Act, or any proceeding there-
under, shall not prejudice or affect . . . any action, suit, or Saving as to
pending
actions, &c.
other proceeding against a company which shall not have obtained
a warrant authorizing the abandonment of the railway or part
of a railway in respect of which such action, suit, or other
proceeding shall be instituted, unless such company shall, within
three days after notice for that purpose from the party suing
them, give such party notice of their intention to apply for such
warrant, and shall obtain the same and serve notice thereof on
such party within three calendar months thereafter, but all such
actions and suits and other proceedings shall be proceeded with,
and judgments recovered, and rules, orders, and decrees made
therein shall be enforced, as if this Act had not been passed, save
only that the same, after notice given by the company of their
intention to abandon as aforesaid shall be suspended for three
calendar months, if the warrant be refused or be not obtained
within that time.

36. Provided always, that nothing in this Act contained shall Saving as to
agreements to
construct rail-
ways.
extend or be construed to extend to authorize the abandonment
by any company of any railway or portion of a railway, or other
works, which such company has agreed under its corporate seal
to make and construct according to any agreement entered into
either with any individual or with any other company, unless
such individual or company shall consent in writing to such
abandonment.

37. In each case in which the said commissioners authorize Commissioners
to report to
Parliament
where aban-
donment is
authorized by
them.
the abandonment of the whole or a portion of a railway, they
shall, within ten days after issuing their warrant for that purpose,
if Parliament be then sitting, or if not, then as soon thereafter
as Parliament meets, lay before both Houses of Parliament a
copy of every such warrant, accompanied by such report and
observations as shall in the judgment of such commissioners set
forth and explain the reasons for their award and warrant in
every such case as aforesaid.

38. The following words and expressions in this Act shall Interpretation
of terms.
have the meanings hereby assigned to them, unless there be
something in the subject or context repugnant to such con-
struction; (that is to say,)

Words importing the singular number only shall include the
plural number, and words importing the plural number
only shall include also the singular number:

Words importing the masculine gender shall extend to
females:

The word "person" shall include body corporate:

The word "lands" shall include messuages, tenements, and hereditaments.

The word "railway" shall include all works, buildings, and undertakings authorized to be constructed or carried on in connexion with the railway, or belonging thereto :

The word "shares" shall include stock :

The word "month" shall mean calendar month.

Short title.

39. In citing this Act in other Acts of Parliament, and in legal and other instruments and proceedings, it shall be sufficient to use the expression "The Abandonment of Railways Act 1850."

[*S. 40 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Sect. 5. SCHEDULE referred to by the foregoing Act.

(1.) Name of Railway.	(1.) Name of Shareholder.	(1.) No. and Amount of Shares or Stock held by him.	(2.) Whether assenting or dissenting.

(1.) The secretary will insert these particulars.

(2.) In this column the shareholder will write the word "assenting" or "dissenting," as the case may be, and sign his name thereunder.

CHAPTER LXXXV.

AN ACT to provide for holding the Assizes of certain Counties of Cities and Towns in Ireland in the Assize Towns of the adjoining Counties at large, in certain Cases; and to make Provision as to Gaols in case of the Change of Assize Towns.

[14th August 1850.]

[*Preamble recites 7 Geo. 4. c. 74. s. 100 ; 5 & 6 Will. 4. c. 26.*]

Power to
direct the
assizes of a
county of a
city or town to

[1.] It shall be lawful for the Lord Lieutenant, by and with the advice of the Privy Council of Ireland, if he and they shall think fit, on the application of the majority of the grand jury at any assizes of any county of a city or county of a town, to direct

and order that the assizes . . . for any such county of a city or county of a town in Ireland, or that any special commission or commissions of oyer and terminer and gaol delivery for such county of a city or county of a town, shall be holden at the assize town for the time being of the county at large adjoining such county of a city or county of a town, or (in case there be more than one adjoining county) of such one of the said adjoining counties at large as shall be specified in such order in council, or to direct and order that all or any prisoners within such county of a city or county of a town shall be committed or transmitted to or kept in custody in the county gaol, or any gaol, bridewell, or house of correction, of such adjoining county at large, or of such one of the adjoining counties at large (in case there be more than one) as shall be specified in such order; . . .

be held at the assize town of the adjoining county at large.

2. In case the Lord Lieutenant, by and with the advice of the Privy Council of Ireland, shall think fit as aforesaid to order and direct that the assizes, . . . or any special commission or commissions of oyer and terminer and gaol delivery, for any such county of a city or county of a town shall be holden at the assize town of the adjoining county at large, such assizes or such special commissions shall to all intents and purposes be deemed to be the assizes or special commission or commissions for such county of a city or county of a town, as fully and effectually as if the same were held within such county of a city or county of a town; and all grand jurors, special and common jurors, witnesses, prosecutors, officers, and persons whatsoever, whose duty it shall be to attend at the assizes or such special commissions of the said county of a city or county of a town, shall attend at, and all matters and things to be transacted and done at or relating to such assizes or special commissions shall be transacted and done at or relating to, such place as aforesaid in such adjoining county at large, as fully and effectually as if the same were within such county of a city or county of a town; and it shall be lawful for the lord lieutenant, by and with the advice aforesaid, to make rules and regulations touching the use of any court house, house of correction, prison, or common gaol of such county at large for the purposes of this Act, and touching the alterations of any writs, precepts, documents, or other proceedings whatsoever, for carrying into effect the purposes of this Act, and touching any other matters that may be requisite for carrying into effect the purposes of this Act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of Parliament, and shall be notified in the Dublin Gazette, or in such other manner as the Lord Lieutenant, by and with the advice of the Privy Council of Ireland, shall think fit to direct: Provided always, that it shall be lawful for the grand jury of such county of a city or county of a town to be sworn and act in discharge of their fiscal business, either in their respective county of a city or county of a town, or in such assize town as

Assizes so held to be deemed to be assizes for county of city, &c.

Rules as to use of court house and gaol, alteration of writs, &c.

Meetings of grand jury of county of city, &c. for fiscal business.

aforesaid in such adjoining county at large to which such assizes or special commissions shall have been removed under and by virtue of the provisions of this Act, according as the same may be directed in that behalf by the same or any subsequent order in council.

Place for holding assizes not to be so changed, except on memorial from grand jury of county of city, &c. and with consent of grand jury of county at large.

3. Provided always, and be it enacted, that it shall not be lawful for the Lord Lieutenant and the Privy Council there, to make any order for changing the place for holding the assizes of a county of a city or county of a town for the purposes of this Act, unless a memorial shall have been presented to him or them by a majority of the grand jury of any assizes of such county of a city or county of a town, held within twelve months preceding such order, praying that such change may be made, and unless a resolution, agreed to by a majority of the grand jury of any assizes (held within such twelve months) of such county at large (into which the a-sizes of such county of a city or county of a town shall be proposed to be moved as aforesaid), shall have been transmitted to such Lord Lieutenant by such last-mentioned grand jury, assenting to such change being made.

Where the place of holding assizes is changed under 5 & 6 Will. 4. c. 26, or this Act, Lord Lieutenant and Privy Council may appoint prison to be the common gaol.

4. In all cases in which the place of holding assizes for any county, county of a city, or county of a town has been or shall be changed under the provisions of the said recited Act of the fifth and sixth years of King William the Fourth or of this Act, it shall be lawful for the Lord Lieutenant, by and with the advice of the Privy Council of Ireland, to order that such prison or gaol as he or they shall think fit shall be the common gaol of the county, county of a city, or county of a town, in relation to which such change shall have been made, and to order the removal or custody of prisoners thereto or therein accordingly;

Compensation to officers of gaols.

5. [*Recital.*] Whenever the place of holding any such assizes, and commissions as aforesaid for any county, county of a city, or county of a town shall have been changed as aforesaid, and by reason of such change any officers of any gaol or prison of such county, county of a city, or county of a town, or of any gaol or prison used for the purposes of the same, or any of them, shall become unnecessary, and shall be discharged from their respective offices, it shall be lawful for the grand jury of such county, county of a city, or county of a town, if they shall think fit, at each assizes, without application to presentment sessions, to present one moiety of such respective annual sum as the grand jury shall deem fit to be paid as an allowance or compensation to every such officer so discharged for the cause aforesaid, during his life respectively; which respective sums shall be from time to time raised, levied, and paid, as other sums raised and levied under presentments of the grand jury at the same assizes: Provided always, that no such annual allowance or sum shall in any case exceed two thirds of the

annual salary to which such person shall have been entitled at the time of his discharge as aforesaid: Provided also, that if any such officer as aforesaid shall be nominated and appointed to any office or employment in or relating to any of the gaols of the same county, county of a city, or county of a town, the salary and emoluments of which office or employment shall be equal to or shall exceed the amount of salary and emoluments which such officer before received, then and in such case the compensation so hereby provided for every person so appointed and employed shall cease and determine from the day of such nomination and appointment: Provided also, that if any person so to be nominated and appointed as aforesaid shall decline or refuse to accept such office or employment, his or her compensation under this Act shall utterly cease and determine.

[S. 6 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER LXXXVIII.

AN ACT to amend the Law relating to Engines used in the Rivers and on the Sea Coasts of Ireland for the taking of Fish.^[1] [14th August 1850.]

WHEREAS it is expedient to amend and explain the several Acts relating to engines used in the fisheries of Ireland :

[1.] . . . in the construction and for the purposes of the said recited Acts and of this Act, unless there be something in the subject or context repugnant to such construction, the words "person," "owner," and "proprietor," shall mean and include any body corporate, aggregate or sole, as well as an individual, and also any company or partnership; and any word importing the singular number only shall mean and include several persons or parties as well as one person or party, and several things as well as one thing, respectively, and the converse; and any word importing the masculine gender only shall mean and include a female as well as a male; and the word "lands" shall mean and include all messuages, lands, tenements, and hereditaments; and the word "waste" shall include and extend to any and to all uncultivated or unprofitable lands; and the word "county" shall include and extend to a county of any city or town; and the words "estuary" and "bay" shall include and extend to any harbour or roadstead; and the word "rivers" shall include and extend to tributaries of rivers, and to all other streams and watercourses; and the word "vessel" shall mean and include any ship, boat, cot, coble, or curragh; and the word "fish" shall extend to and include oysters and oyster brood; and the word

Interpretation
of terms in
recited Acts
and this Act.

[¹ Short title, "The Fisheries (Ireland) Act, 1850." See 55 & 56 *Vict. c.* 10.]

"salmon" shall extend to and include grilse, peall, sea trout, samlets, par, and all other fish of the salmon kind, and the spawn and fry thereof; and the word "trout" shall extend to and include pollen or fresh-water herring, and all fish of the trout kind, and the spawn and fry thereof; and the word "net" shall mean and include all descriptions of tackle, trawl, trammel, stake, bag, coghill, eel, haul, draft, and seine nets, and all other engines or devices, of whatsoever construction or materials, or howsoever known or styled, which shall be used for the like purposes as those in this Act or in the said recited Acts referred to; and the words "fixed net," or "fixed engine," shall extend to and include weirs, stake, bag, stop, and still nets, and all other engines or devices used for the like purposes, of whatsoever construction or materials the same may be, or however known or styled, and whether fixed to the soil or held by the hand, or made stationary in any other way; and the words "close time" or "close season" shall mean and include any time or season within which it is or shall be prohibited to fish for, take, or destroy any salmon, trout, oysters, or any fish of any of the kinds in this Act or in the said recited Acts referred to, or the brood, spawn, or fry thereof; and the word "fisheries" shall mean and include all fisheries, whether several or public; and the words "several fisheries" shall mean and include all fisheries lawfully possessed and enjoyed as such under any title whatsoever, being a good and valid title at law, exclusively of the public, by any person or persons, whether in navigable waters or in waters not navigable, and whether the soil covered by such waters be vested in such person or persons, or in any other person or persons; and the words "owner," or "proprietor," shall mean and include every person who shall be in the actual possession, or use and enjoyment, or receipt of the rents or profits, of any lands or fisheries (as the case may be), save that in every case in which any person shall be in possession or receipt of the rents or profits of any fisheries or lands under any sequestration, extent, elegit, or other writ of execution, or as a receiver under any order of a court of equity, the person against whom such writ shall have issued, or who but for such order would have been in possession, shall, jointly with the person in possession by virtue of such writ or order, be deemed for the purposes of this Act to be the owner of such fisheries or lands; and the words "judge of assize" shall, as to cases arising or to be determined in the county of Dublin or county of the city of Dublin, mean and include a judge of any of the law courts of record in Dublin at nisi prius at the first sittings after the pronouncing or making of any order or decision appealed from or complained of, or, if such first sittings shall commence within twenty-one days after the pronouncing or making such order or decision, then at the sittings next immediately after such first sittings.

Any person
being owner of
lands and also

2. Where any person shall be the owner of any lands, and also the owner of or interested in some question as to any

fisheries adjoining to such lands, or carried on or exercised upon the same, such person, for the purposes of this Act or the said recited Acts, may act and be dealt with in both or either of the several characters so borne by him as aforesaid.

3. Wherever the owner of any lands or fisheries to which the provisions of this Act or the said recited Acts are intended to apply, or any person interested in any question as to any fisheries, shall be a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustee, committee of the estate, or husband, of such person or owner, or his or her attorney or agent respectively, and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act and the said recited Acts be substituted in the place of such owner or person so interested.

4. It shall be lawful for any land owner or fishery owner, by a power of attorney given in writing under his hand, to appoint an agent to act for him in carrying into execution the provisions of this Act or the said recited Acts; and all things which by this Act or the said recited Acts are directed to be done by or with relation to any person may be lawfully done by or with relation to the agent so duly authorized of such person; and every such agent may be dealt with in all respects as such person himself might have been dealt with under this Act or the said recited Acts; and every such agent shall have full power, in the name and on behalf of his principal, to take part in or act upon any inquiry, or prosecute, oppose, or defend any complaint, appeal, action, writ, suit, or other proceeding, or attend, vote at, and take part in any meeting, or do or suffer any other act for the purposes of this Act or the said recited Acts; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the power of attorney under which the agent shall have acted shall be produced, inspected, or registered, and copies or extracts thereof made, at such times and places and in such manner as the commissioners appointed for the execution of the said recited Acts shall direct; and any such power of attorney may be in the form following:

‘ I A.B. of [&c.] do hereby appoint C.D. of [&c.] to be my lawful attorney, to act for me in all respects as if I myself were present and acting; and I make this appointment under and by virtue of an Act passed in the year of her present Majesty, intituled [*here insert the title of this Act*].
(Signed) ‘ A.B.’

5. [Recital of 11 & 12 Vict. c. 92. ss. 3, 4, 14, 19, 27.] It shall and may be lawful for the conservators of fisheries assembled at any general meeting for any district under the provisions of the said Act, if they shall think fit so to do, to make an order under their hands and seals authorizing the conservators of any electoral division or divisions to hold meetings within the division

of fisheries, may act and be dealt with in both characters, or in either.

Guardians, trustees, &c., or their agents, substituted for owners under legal disability.

Owners may appoint agents to act for them.

Conservators of any district may depute conservators for electoral divisions to act for such electoral divisions,

and appoint
treasurer,
clerk, &c.

or divisions for which they may have been elected, and to appoint a bank to be treasurer, and to appoint a clerk, inspector, and water bailiffs, to act for such division or divisions, with reasonable salaries: Provided always, that the fixing and duly publishing notice of the times and places for the meetings of conservators in such electoral divisions, and the appointment of a bank to act as treasurer, and the appointments of clerks, inspectors, and water bailiffs, as herein provided, pursuant to such order, shall be subject to the same provisions and regulations as are provided and required by the said recited Act to be observed and done by boards of conservators assembled at general district meetings, with respect to the premises; and that after any such order shall have been made the holding of such meetings and such appointments shall be good and valid in law, and it shall and may be lawful for the conservators assembled at any general district meeting as aforesaid to apply and appropriate any portion of the money received for licence duties and rates, and for forfeitures and penalties, for any district, as they shall consider expedient, to and for the purposes of any such electoral division or divisions, and cause the same to be lodged to the credit of the conservators for such electoral division or divisions in the bank which such conservators shall as herein provided appoint to act as treasurer, and such treasurer shall pay such sums of money as shall be required for the purposes of such electoral division or divisions, from time to time, upon a draft or order signed by the chairman at any meeting of such conservators for such electoral division or divisions, and by two other such conservators: Provided always, that such conservators acting for any electoral division or divisions as herein provided shall furnish such accounts of the disbursements of such money as may be lodged to their credit in the manner aforesaid as the conservators for any district making such order as aforesaid shall from time to time require.

Alteration of
fishery dis-
tricts or
divisions.

6. And whereas the commissioners appointed under the said recited Acts respectively for the execution of the same have, for the purpose of regulating the use of certain engines, and generally for the purposes of the said recited Acts, made sundry divisions and sub-divisions of fishery districts, and have duly published the same respectively, and boards of conservators have been elected for such districts respectively, which said divisions and subdivisions respectively it may be desirable to revise and alter from time to time for the purposes of the said recited Act and of this Act: Be it therefore enacted, that the said commissioners for the execution of the said recited Acts may for the purposes aforesaid, upon the written application of and signed by at least one third part in number of the board of conservators for any fishery district, whether now subsisting or which may have been altered, subdivided, united, or made by the said commissioners under the authority of this Act, alter or subdivide such district or any electoral division thereof, and may fix other boundaries

for the same, or unite any two or more electoral divisions of one district, or make any new or additional or substituted electoral division in any district, and to determine the number of conservators to be elected for each such electoral division: Provided always, that every such alteration, or subdivision, union, or addition, or substitution, shall be duly published and described, with the boundaries of the same, in such manner as is in and by the Fisheries (Ireland) Act, 1848, required to be done in the case of divisions and subdivisions of fishery districts made under that Act. 11 & 12 Vict. c. 92.

7. And whereas by the Fisheries (Ireland) Act, 1848, it is provided, that in the case of certain fixed and established fisheries, which are designated several fisheries, the same are liable, in addition to the licence duty provided by the said Act to be paid for the engines used in fishing such fishery, to such sum as an annual rate as shall be equal to the amount of the difference between the sums paid by such respective persons for such licence duty or duties as aforesaid and the annual sum of ten per cent. upon the poor law valuation of such fishery, subject to such alteration of such per-centage as may from time to time be made by the board of conservators of the district under the provisions of the said Act: And whereas it is expedient that the said liability should be extended to all productive fisheries which may be rated for the relief of the poor at any time: Be it therefore enacted, that all salmon, trout, and eel fisheries whatsoever, so rated for the relief the poor, whether possessed as several fisheries, as so designated in the Fisheries (Ireland) Act, 1842, or this Act, or otherwise, shall be liable to the same annual sum or rate as aforesaid on the poor law valuation as those fisheries designated several fisheries: Provided always, that such rating shall not confer a right or title to any such fisheries as several fisheries, or any other right or title which the persons possessing them would not have possessed if this Act had not passed: Provided also, that such rate shall be recoverable in like manner as the same rate on several fisheries. 11 & 12 Vict. c. 92. s. 23.

Rating of fisheries.

5 & 6 Vict. c. 106.

8. Where any monies shall be received by the treasurer of any district in respect of licence duties or rates for the period or term in which the then next election of conservators is to take place, such monies shall, until such election, be carefully retained by such treasurer, and shall after such election be paid over by him to or to the order of the new board of conservators, to be applied by them according to the provisions of the said recited Acts and of this Act. Monies received for duties, &c. prior to elections to be retained by treasurer and handed over to new board.

9. Any party who shall conceive himself or any other person to be unduly or unequally or insufficiently charged by any such board of conservators with any licence duty as aforesaid may present his appeal therefrom, either to the assistant barrister for the district or to the going judges of assizes at the then or then next assizes holden for the county or jurisdiction wherein his Appeal against amount of licence duty.

fishery district is situate; and such assistant barrister or judges, as the case may be, shall hear and examine into such appeal, and adjudicate thereon, and such their adjudication shall be final: Provided always, that until and unless any charge shall be reduced or disallowed by such assistant barrister or judges, (as the case may be,) the party charged shall be deemed liable to the full amount of licence duty wherewith he shall have so been charged: Provided also, that if such charge shall be so reduced or disallowed as aforesaid, such reduction or disallowance (as the case may be) shall relate back to the time of making such charge, and shall operate either by way of further charge or of discharge in full, or pro tanto, as the case may be; and if it shall operate by way of discharge as aforesaid, and the party so discharged shall have theretofore actually paid the amount of such charge, he shall immediately upon such adjudication be entitled to recover back from the said board of conservators for such district the full amount of such charge, or (as the case may be) the excess beyond or over the true amount of such charge, in conformity with the said adjudication: Provided always, that due notice of the party's intention to present such appeal shall be by him served upon the said board of conservators within ten days after the making of such charge: Provided always, that no such appeal shall lie in respect of any licence duties specified in the schedule annexed to the Fisheries (Ireland) Act, 1848.

11 & 12 Vict.
c. 92.

New elections
of conser-
vators.

10. In case any conservator shall die, or become incapable to act, during the period for which he is elected, the other conservators elected for the same district, (notwithstanding such death or incapacity, and whether any person shall or not be elected in his room,) shall immediately summon another general meeting of the persons in his electoral division so entitled to meet as in the Fisheries (Ireland) Act, 1848, is mentioned, for the purpose of electing a conservator in his room, and such meeting shall be so summoned and held as is therein provided with respect to the annual general meetings, and the person elected at such meeting shall be and continue and act as a conservator for such electoral division and district during the residue of the said period: Provided nevertheless, that in the meantime and until such new election the said other conservators shall act for such district in all respects as they might have done but for such death or incapacity.

11 & 12 Viet.
c. 92.

Justices being
conservators
not disqualified
from sitting on
trial of offences
against this
Act and
recited Acts.

11. No elected or other conservator, being also a justice of the peace for the county or counties or other jurisdiction within which his district or electoral division is situate, shall be thereby disqualified to sit and adjudicate as such justice of the peace, or at any quarter or petty sessions within the same, upon any complaint made or prosecution instituted by or on the behalf of the board of conservators of which he is such member, in respect of any offence against this Act or the said recited Acts: Provided always, that no elected or other conservator shall be qualified,

so long as he holds such office, to receive or hold any office or appointment under this Act to which any salary, allowance, or remuneration is incident.

12. Any persons using or erecting any engine, net, instrument, or device whatsoever, without being duly licensed under the provisions of the Fisheries (Ireland) Act, 1848, or this Act, shall be liable to pay such penalty, not less than double nor more than treble the licence duty which the engine, net, instrument, or device he shall have been so using or erecting would for the time being be subject to under the said Act or this Act, in addition to the forfeiture of the engine so used, anything in the Fisheries (Ireland) Act, 1848, to the contrary notwithstanding.

Penalty for using engines, nets, &c. without licence increased.
11 & 12 Vict. c. 92.

13. [*Recital of 11 & 12 Vict. c. 92 as to election of conservators.*] All conservators appointed at all future elections, shall continue to hold office for three years from the time of their elections, anything in the said Act to the contrary notwithstanding: Provided always, that if any board of conservators shall neglect to give notice and appoint times and places for holding meetings for elections, it shall be lawful for the said commissioners to appoint such times and places for such purpose; and in such cases the election of conservators shall be as good and valid in law as if the meeting had been called by the conservators.

Elections of conservators to be triennial.

14. When any party complaining of the erecting, maintaining, or of using, any weir, fixed net or engine, shall exhibit to the said commissioners his complaint in that behalf, in writing signed by him, and setting forth such particulars of his said complaint as are in the like case required by the Fisheries (Ireland) Act, 1845, the said commissioners shall thereupon summon before them the party or parties (if he or they can be found) erecting, maintaining, or using, such weir, fixed net or engine, or, if he or they are absent or dead, or under incapacity, then the occupier or occupiers (if any) of the land whereon the same is so erected, or the owner or owners of such land, if the same shall not be occupied, to attend at some convenient place within the county or jurisdiction in which or on the shore or boundary of which any such weir, fixed net or engine, or any part thereof, may be so erected, constructed, maintained, or used; and the said commissioners shall accordingly, at the time and place mentioned in any such summons, upon proof of the personal service of such summons, or upon proof of such summons having been left at or on board the vessel or at or posted on the known residence of the party or parties so summoned, proceed to hear all such pertinent evidence as may be adduced before them, whether at the instance of them the said commissioners, or on behalf of the party (if any) making such complaint, or on behalf of the party or parties summoned; and if, after hearing all such evidence, the said commissioners shall so think fit and right, it shall be lawful for the said

Powers of Commissioners as to erection or use of weirs, fixed nets or engines.
8 & 9 Vict. c. 108.

commissioners (whether the party or parties so summoned shall have appeared or not at such hearing) to make an order or decision in writing under their hands and seals, declaring that such weir, fixed net or engine, or any part thereof, is a nuisance, and shall be abated and removed; and the said commissioners shall thereupon, by warrant under their hands and seals, direct or authorise some proper person to abate and remove such weir, fixed net or engine, or part thereof, at the expence of the party or parties summoned, or such of them as shall appear to the said commissioners to have erected, constructed, maintained, or used the same, or suffered such erection, construction, maintenance, or user, or any of them, and thereupon the same shall be abated and removed accordingly; and, subject to the appeal hereinafter provided for, it shall be lawful for the said commissioners to order and direct that the materials of any such weir, fixed net or engine, or any part thereof, be forfeited and sold, and the produce arising from such sale applied in such manner as is in the said recited Acts provided in cases of illegal nets used or legal nets illegally used for fishing.

Deposit of
materials
pending
appeal.

15. [*Provisions as to mode of appeal from adjudications of Commissioners rep. 56 & 57 Vict. c. 14. (S.L.R.)*; for substituted provisions see 26 & 27 Vict. c. 114. s. 14.] Provided always, that in case of such appeal being made against any order or decision for the abatement or removal of any such weir, fixed net or engine, or part thereof, as aforesaid, and notice given as aforesaid, the materials of such weir, fixed net or engine, or part thereof, as the case may be, shall be deposited in the custody of such officer or men of coast guard or constabulary, or with such other party or person, as the said commissioners may direct or appoint for the purpose, there to remain and be kept until the matter of such appeal shall be decided as aforesaid, or until the time for prosecuting the same shall have expired; and if such decision shall be in favour of the appellant, such materials shall thereupon be returned, and the amount of his expences (if any) incident to such abatement, removal, and deposit as aforesaid respectively repaid to such appellant.

[*S. 16 rep. 56 & 57 Vict. c. 14. (S.L.R.)*]

Penalties on
persons erect-
ing or re-
erecting or
using weirs,
&c. after order
for removal or
conviction for
erection, &c.
thereof.

17. If, after any order or decision of any judge of assize heretofore made for abating or removing any weir, fixed net or engine, or any part thereof, or after any order or decision of any court whatsoever which shall at any time hereafter be made for abating or removing any weir, fixed net or engine, or any part thereof, unless and until the same shall be reversed on appeal, any person shall erect, re-erect, use, or fish with any weir, fixed net or engine, or any part thereof, in or adjoining or contiguous to any place where it may have been or shall be decided by any such court that any such weir, fixed net or engine, or any part thereof, should be abated and removed, or if any person shall erect, re-erect, use, or fish with any weir, fixed net or engine, or any part thereof, contrary to law, and after conviction of any

person for erecting, using, or fishing with any weir, fixed net or engine, or any part thereof, in the same place, or in, adjoining, or contiguous to the same place, or for erecting, using, or fishing with any weir, fixed net or engine, or any part thereof, of the same description or used for the same purposes, then and in every such case the said commissioners, or any two justices of the peace for the county or other jurisdiction wherein the said weir, fixed net or contrivance, or any part thereof, shall have been so erected or re-erected, or used or fished with, shall, by warrant under their hand and seal, from time to time, and so often as any such weir, fixed net or engine, or any part thereof, as aforesaid, shall be so erected, re-erected, used, or fished with, abate and remove the same, at the expence of the party or parties erecting, re-erecting, using, or fishing with the same, or of the owners or occupiers of the soil whereon such weir, fixed net or engine, or any part thereof, shall be so erected, re-erected, used, or fished with, (if such owners or occupiers shall appear to have permitted or suffered such erection, re-erection, use, or fishing,) and further, the materials of every such weir, fixed net or engine, or such part thereof as aforesaid, shall be forfeited, and sold or otherwise disposed of as the said commissioners or justices shall direct; and the said party or parties and owner shall (independently of all other forfeitures and penalties to which under this Act or the said recited Acts, he or they may be liable) forfeit and pay for every such offence any sum not less than twenty pounds, and also any sum not exceeding ten pounds nor less than two pounds for every day during which such weir, fixed net or engine, or such part thereof, shall continue to be so erected, re-erected, used, or fished with as aforesaid; and the produce of such sale and all such forfeitures and penalties respectively shall be disposed of and applied in such manner as is in and by the said recited Acts directed in regard of illegal nets or nets illegally used for fishing.

18. Provided always, that where any such order or decision of any such court as aforesaid hath been or shall hereafter be made for abating or removing any weir, fixed net or engine, or any part thereof, merely by reason of its having been erected, used, or fished with on the soil and without the permission of the person being or claiming to be the lawful owner thereof, and for no other reason, such person shall not be thereby estopped or prevented from afterwards erecting, re-erecting, using, or fishing with (subject, nevertheless, to the other provisions of this Act and the said recited Acts) any such weir, fixed net or engine, or any part thereof, as aforesaid, or any other weir, fixed net or engine, or any part thereof, in or adjoining or contiguous to the place wherein it may have been or shall be decided by such court as aforesaid that the said first-named weir, fixed net or engine, or such part thereof, as aforesaid, should be abated and removed: Provided also, that nothing herein contained shall be construed to give to or

Erection of weirs, &c. in adjacent place, after order for removal.

confer upon any such person so being or claiming as aforesaid any new or better title to the said soil, or any new or better right to erect, use, or fish with any weir, fixed net or engine, or any part thereof, in or adjoining to or contiguous to such place as aforesaid, but that he shall in other respects remain and be subject to the provisions of the said recited Acts and of this Act in that behalf set forth.

Saving of jurisdiction of Admiralty and other courts as to nuisances to navigation, &c.

19. Nothing in the said recited Acts or this Act contained shall take away or in any manner lessen or impair the powers of her Majesty's High Court of Admiralty, or any other court or jurisdiction, in relation to the removal or abatement of nuisances accruing or occasioned to navigation, fishery, or the passage of fish, by the placing or maintaining or using of weirs, fixed nets, or other contrivances.

Pleading in actions or prosecutions.

20. In any action or prosecution for or in respect of any of the trespasses or nuisances aforesaid it shall not be necessary to set forth in the declaration or indictment the metes or bounds of the place in which the trespass or nuisance complained of hath been committed, and it shall be sufficient to state generally that the same was committed within the district in which the fishery in question shall happen to be situate.

Definition of mouths of tributary rivers.

21. And whereas provisions have been made by the said recited Acts for defining the mouths of rivers "at their entrance into the sea"; and for the better protection and regulation of the fisheries it may in many cases be expedient to prohibit the use of nets within certain distances of the mouths of tributary rivers at their entrance into other rivers, estuaries, roadsteads, or bays: Be it therefore enacted, that it shall and may be lawful for the said commissioners to define the mouths of such rivers, where they shall think fit so to do, subject to the provisions of the said recited Acts; and when the mouth of any such river shall have been defined as herein provided, the same regulations with respect to using, placing, or erecting nets shall be observed, and may be enforced in like manner, as provided by the said recited Acts and this Act, and any person offending shall suffer the same forfeitures and penalties as therein provided.

[S. 22 (*as to making and maintaining a free gap or Queen's share in any weir, dam, or dyke*), and ss. 23–31 *rep.* 55 & 56 *Vict. c. 19.* (S.L.R.) Ss. 32, 33 *rep.* 56 & 57 *Vict. c. 14.* (S.L.R.)]

Removal of nets used in salmon fishing during close seasons.

34. Every proprietor, lessee, or other person who shall be engaged in fishing for salmon by means of nets of any kind or description, shall remove and carry away, or cause to be removed or carried away, from any strand, or from the banks of any river, or from the vicinity thereof, during the yearly close season, all such nets; and in case any such person shall omit or neglect to remove or carry away, or cause to be removed or carried away, such nets as aforesaid, he shall forfeit all such nets, and

shall forfeit and pay a sum not exceeding ten pounds nor less than two pounds.

35. [*Recital.*] Any person in whose possession any part or portion of a salmon or trout shall be found or exposed for sale during the close season shall be in the like cases subject to the like penalties and forfeitures as are provided by the said recited Acts or any of them; and all persons empowered to enforce the provisions of the said recited Acts and this Act shall be and are hereby empowered to seize all such salmon or trout, or any such portion thereof as aforesaid, when so found in the possession of any person or exposed for sale during the close season.

Penalty for having in possession or exposing for sale any part of a salmon or trout during the close season.

36. [*Recital.*] Any person found on the bank of or near any river with any deleterious matter in his possession, under such circumstances as shall satisfy the court before whom he may be tried that such person had employed or was about to employ such deleterious matter for the capture or destruction of fish, the said court is hereby empowered to inflict on such person a penalty not less than five pounds nor more than ten pounds for every such offence; and any person found taking fish from any river or lake, where it shall be proved to the satisfaction of any justice or justices that such fish have been wilfully poisoned, shall be subject to a penalty of not less than ten shillings nor more than five pounds.

Penalty for possessing deleterious matter with intent to poison rivers for the purpose of taking fish.

37. And whereas in many rivers fish are impeded in their passage up and down by means of weirs used for supplying water to mills or factories or for navigation: Be it therefore enacted, that it shall not be lawful to use any net, instrument, or device for taking fish (save and except rods and lines only) within two hundred yards of any such weir, either above or below the same; and if any person shall offend against this provision, he shall forfeit and pay a sum not less than two pounds nor more than ten pounds for every such offence, and shall also forfeit such net, instrument, or device: Provided always, that where such right has been exercised in any such place by any person or persons lawfully possessed of a several fishery therein for twenty years next before the passing of this Act, he shall not be subject to the penalty hereinbefore provided.

Nets and other engines not to be used within certain distances of certain weirs.

38.^[1] It shall not be lawful to take salmon or trout in any crib, box, cruive, eye, sluice, or gap, in any salmon, eel, or other weirs, whether the same be set in the tideway or in the fresh-water portion of any river, between the low water next in point of time before six o'clock on Saturday night and the low water

Weekly close time.

[¹ By 26 & 27 Vict. c. 114. s. 20. it is enacted, that there shall be repealed so much of the Salmon Fisheries Acts as provides that it shall not be lawful to take or kill any salmon or trout between six of the clock on Saturday evening and six of the clock on Monday morning, or between the low waters next in point of time to those periods respectively, and the said Acts shall be construed as if it had been enacted therein that no salmon or trout shall be fished for or taken in any way, except by single rod and line, between six of the clock on Saturday morning and six of the clock on the succeeding Monday morning.]

next in point of time before six o'clock on Monday morning, if the weir be in the tideway, nor between six o'clock on Saturday evening and six o'clock on Monday morning, if the weir be in the fresh-water portion of any river; and in case any question or doubt should arise as to whether any such weir is in the tideway or in the fresh-water portion of the river, it shall be competent to the commissioners, on application to them, to determine, by certificate under their hands and seals, whether such weirs should be subject to the aforesaid regulation relating to the tideway, or to the aforesaid regulations relating to the fresh-water, as to the said close time; and a copy of such certificate shall be lodged with the clerk of the peace for the county or counties in which such weirs shall be situate, and an attested copy thereof, certified by such clerk of the peace, shall be received as evidence of the determination so made by the said commissioners; and any person offending against the said regulations respectively shall be subject to the forfeitures and penalties provided by the said recited Act or this Act for breaches of the law in respect to the weekly close time or close season.

Provisions as to opening and shutting of sluices of weirs of mills and factories.

5 & 6 Vict. c. 106.

39. The waste sluices, waste gates, or overfalls of the weirs of any mill or factory deriving their supply from rivers frequented by salmon shall, at all seasons of the year when and during the time such mills or factories shall not be used for milling purposes, be kept open, if no passage for fish be provided; and when such passage for fish shall be provided, then the sluices which admit the water to such mills or factories, and the waste sluices, waste gates, or overfalls, shall be kept down or shut, to force the water through such passage for fish, as provided by the Fisheries (Ireland) Act, 1842; and if the owners of any such mill or factory not used for milling purposes as aforesaid shall omit to keep any such sluice or sluices, waste gates, or overfalls, shut as aforesaid, or open as aforesaid, as required in the respective cases aforesaid, he shall forfeit and pay a sum not less than two pounds nor more than ten pounds for every such offence: Provided always, that the opening or shutting of such sluices, waste gates, or overfalls shall not in any way injuriously interfere with the machinery or water power of any mill or factory whatsoever.

Otters, spears, gaffs, &c. prohibited.

40. It shall not be lawful, in any fresh-water river or lake, at any season of the year, to use for the purpose of taking fish any otter, lyster, spear, strokehaul, dree draw, or gaff (except when the latter implement may be used solely as auxiliary to angling with rod and line, or for the purpose of removing fish from any legal weir or box by the owner or occupier thereof); and if any person shall offend against this provision, he shall upon conviction thereof forfeit and pay any sum not exceeding ten pounds nor less than four pounds, and shall also forfeit such implement and the materials thereof: Provided always, that nothing herein contained shall be construed to extend to eel spears.

[S. 41 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.) S. 42 *rep.* 29 & 30 *Vict.*
c. 88. s. 6.]

43. Stake weirs, stake nets, and other fixed nets, in the sea or tidalways, shall be so placed and erected, maintained and used, as that clear openings for the free passage of fish as in the said recited Acts provided can be made in the pouches and traps thereof; and if any person shall offend by placing, erecting, maintaining, or using any weir, net, leader, engine, or work, in any manner hereby prohibited, or neglect to construct the same in the mode required by the provisions contained in the said Acts, he shall for every such offence forfeit a sum not exceeding ten pounds nor less than one pound.

Regulations as to stake nets, &c. in the sea or tidalways.

44. It shall not be lawful for any person, save and except the owner of a several fishery within the limits thereof, at any time to shoot, draw, or use any net for taking salmon at the mouth of any river, where the breadth of such mouth between the banks thereof shall not exceed a quarter of a mile statute measure; and it shall not be lawful for any person, save such owner as aforesaid, within such limits as aforesaid, to shoot, draw, or use any net for taking salmon within half a mile seaward, or half a mile inwards, or along the coast, from the mouth of any river, such mouth to be defined, ascertained, and mapped, in case of dispute, by the said commissioners; and it shall not be lawful for any person, save and except the owner of a several fishery in the whole of a river and its tributaries within the limits of such several fishery, to shoot, draw, stretch, or use nets at the mouth or any other part of any river in such wise as, in the judgment of the commissioners, to be injurious or detrimental to the free passage of fish, and which they shall have prohibited by some bye law duly published as the law directs; and if any person shall offend by shooting, drawing, stretching, or using any net in any place or manner hereby prohibited, he shall for every such offence forfeit a sum not exceeding ten pounds nor less than one pound, and also the further penalty of five shillings for every fish taken by means of such net in such place and manner so prohibited as aforesaid; and such net shall also be forfeited.

Nets for taking salmon not to be used, except by owners of several fisheries.

45. No person shall kill, take, or destroy, in any lakes or rivers, any trout between the twenty-ninth day of September in any year and the last day of February in the year following, nor shall any fixed crib, cruive, box, or other device, nor any haul, draw, or other net of any description, for the catching of such trout, be used in any lake or river frequented by salmon between the first and twenty-ninth day of September in any year, or at such periods as may be or may have been fixed for certain lakes and rivers by the said commissioners in respect of salmon fishing, under the powers in the said recited Acts contained.

Close season for trout fishing.

Penalties for not opening or removing cribs, &c. in weekly close time.

5 & 6 Vict. c. 106.

46.^[1] Any person occupying or using any crib, box, cruive, stake, flood, ebb, or head weir, stake, bag, or other fixed net, basket, or other engines for catching fish, and failing to remove or open the same as required by the Fisheries (Ireland) Act, 1842, and any person using any means, device, or contrivance to prevent the free passage through such box, cruive, or engine, or in any way or by any means wilfully frightening or scaring, or attempting to frighten or scare, any salmon or other fish from passing through such box, crib, cruive, pouch, trap, eye, sluice, gap, or other engine, or taking therein any salmon, between six of the clock on Saturday evening and six of the clock on Monday morning, or between the low waters next in point of time to those periods respectively, as the case may be, shall for every such offence forfeit and pay a sum not less than ten pounds and not exceeding fifty pounds: Provided always, that nothing herein contained shall be construed to render liable to any penalty any person who shall be able satisfactorily to prove that he was prevented by floods, storm, or stress of weather from removing such leaders or making such openings as aforesaid, during the continuance of such prevention, but no longer.

As to offences committed in rivers, &c. forming boundaries of two districts of petty sessions.

47. [*Recital of 5 & 6 Vict. c. 106. s. 106.*] Where any of the offences mentioned in this or any of the said recited Acts shall be committed in or upon any lakes, rivers, or streams forming the boundaries or mearing lines between any two districts of petty sessions, such offence shall be prosecuted before any justice or justices of the peace in either of such districts, and in no other, and may be alleged and stated to have been committed therein, anything in the said Acts to the contrary notwithstanding.

Recovery of expences of works executed at the expence of offender.

48. Wheresoever, under the provisions of this Act or the said recited Acts, any justice or justices of the peace, or the said commissioners or conservators, are authorized or empowered or required to execute any work, or remove or alter any weir or other erection, or to do any matter or thing, at the expence of any offender, such justice or justices, or commissioners or conservators, as the case may be, shall ascertain the amount of such expences, and direct payment thereof to be made by such offender to such person as he or they may think fit, and it shall be lawful for such person to sue for and recover the same, by civil bill, or by action in any of the superior courts in Dublin; and a certificate in writing under the hand or hands of such justice or justices, or commissioners or conservators, as the case may be, shall be conclusive evidence of the amount of such expences, and of the liability of the party therein named to pay the same, and of the right of the person thereby authorized to sue for and recover the same.

[¹ See note to s. 38.]

49. All penalties directed to be enforced against any person or persons offending contrary to the provisions of this Act or the said recited Acts shall be levied by the same persons and in the same manner as all fines and penalties may by law be levied, or by the officers and men of the coast guard service, or of the constabulary force. Levy of penalties.

50. The justice or justices before whom any person shall be convicted of any offence against this Act or of any of the said recited Acts shall cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect; (that is to say,) Form of conviction.

' BE it remembered, that on the day of in
' the year of our Lord , at , in the county of
' , [or city, town, or place, as the case may be,] A.O.
' is, upon the complaint of G.H., convicted before me, J.P., one
' of her Majesty's justices [or before us, C.D. and E.F., justices]
' of the peace for the said county of , in pursuance
' of an Act made in the year of the reign of her
' Majesty Queen Victoria, intituled [here insert the title of the
' Act] for that the said A.O. [here state the offence, and the time
' and place when and where the same was committed]; and I
' [or we] do hereby adjudge him to pay and forfeit for the said
' offence the sum of of lawful money of Great
' Britain, together with the further sum of for
' costs of suit and prosecution of the said G.H.; [and in case
' any nets or other engines are to be forfeited] I [or we], do
' hereby further adjudge that the nets or other engines, *et cetera*,
' [describing the same,] be and the same are hereby forfeited.
' Given under my hand and seal [or our hands and seals, as the
' case may be], at , in the county of
' the day and year above written.'

Which said conviction and adjudication shall be good and valid in law to all intents and purposes, and shall not be quashed, set aside, or adjudged void or insufficient, for want of form only, and shall not be liable to be removed by certiorari or otherwise into her Majesty's Court of Queen's Bench, or any other of her Majesty's courts of record at Dublin, but shall be deemed and taken to be final to all intents and purposes whatsoever, unless the same shall be reversed on appeal as herein-after provided: Provided always, that no person shall be convicted of any offence committed against the provisions of this Act unless the prosecution for the same shall be commenced within six calendar months from the time of the commission of such offence. Convictions not to be removed by certiorari, &c.

51. In all cases where any person has any right of appeal against any judgment, order, proceeding, or conviction for placing, erecting, maintaining, or using any fixed net, weir or engine, or any part thereof, whereby such person is aggrieved, such appeal shall (subject to the specific provisions herein-before contained) be to the next going judges of assize at the assizes to be held for the county, or for the city or place, where such Appeals from orders or convictions to judges of assize.

53. It shall and may be lawful for the judges of assize assembled at any such assizes as aforesaid to rehear the subject matter of such conviction or order of dismissal as last aforesaid, and either affirm or reverse the same, or impose or increase or reduce any penalty which may have been adjudged, such imposition or increase nevertheless not to amount to a greater sum, nor such reduction to be to a smaller sum, than by this Act or the said recited Acts is directed; and in case such conviction shall be affirmed, it shall be lawful for such judges to award such costs and expences to the prosecutor, and any witnesses who may be examined in support of such prosecution, as they may think reasonable; and in case the party appealing from any such order of dismissal as aforesaid shall not appear at such assizes as aforesaid to prosecute the same, such order of dismissal shall be affirmed; and it shall be lawful for the said judges to award to the person accused such costs and expences of witnesses as they may think reasonable; and in case any appellant or respondent on any such appeal shall not pay any costs or expences which may be awarded against him, his recognizances shall be estreated.

Proceedings
on appeals.

54. It shall be lawful for the commissioners, judges of assize, justices of the peace, or any of the courts in this Act, or in the said recited Acts mentioned, where any complaint, suit, action, or indictment shall have been heard or tried and determined before them respectively under this Act or the said recited Acts, to order that the costs, charges, and expences of and incident to such complaint, suit, action, or indictment, and the proceedings therein, and the hearing or trial and determination thereof, shall follow the event of the same respectively, and be borne and paid by the party against whom the same shall have been determined, and such costs, charges, and expences shall be estimated either as between party and party or as between attorney and client, at the discretion of such commissioners, judges, justices, or courts, respectively; which costs, charges, and expences, being so ordered as aforesaid, shall be recovered against the party therewith charged, in the same manner as is herein before specifically provided with respect to costs in certain cases.

Powers of
commissioners
and courts as
to costs.

[S. 55 *rep.* 56 & 57 *Vict. c.* 14. (S.L.R.)]

56. Provided always, that nothing contained in this Act or in any of the Acts recited or referred to shall extend or be construed to extend to alienate, defeat, lessen, abridge, or derogate from, or in any manner affect, any estate, right, title, interest, franchise, royalty, prerogative, or jurisdiction, vested in or appertaining to the Queen's most excellent Majesty, in right of her crown, or otherwise howsoever.

Saving for the
rights of the
crown.

[S. 57 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXXXIX.

AN ACT to regulate the Proceedings in the High Court of Chancery in Ireland. [14th August 1850.]

[*Preamble.*]

[*Ss. 1-32 rep. 30 & 31 Vict. c. 44. s. 52.*]

Appointment
of secretary to
the Master of
the Rolls.

33. It shall be lawful for the Master of the Rolls in Ireland from time to time to appoint a fit person to act as secretary to the Master of the Rolls in Ireland; and the person so appointed shall hold his office during the pleasure of the said Master of the Rolls, . . .

[*Ss. 34, 35, 37-39, 41 rep. 54 & 55 Vict. c. 67. (S.L.R.) S. 36 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 40 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 42 rep. 41 & 42 Vict. c. 79. (S.L.R.)*]

Short title of
this Act.

43. In citing this Act in other Acts of Parliament, and in legal or other instruments and proceedings, it shall be sufficient to use the expression "The Court of Chancery (Ireland) Regulation Act, 1850."

[*S. 44 rep. 54 & 45 Vict. c. 67. (S.L.R.)*]

[*Sched. rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XCII.

AN ACT for the more effectual Prevention of Cruelty to Animals in Scotland.[¹] [14th August 1850.]

[*Preamble.*]

Ill-treating,
over-driving,
&c. animals.

[1.] Any person who shall cruelly beat, ill-treat, over-drive, abuse, or torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any animal, shall be guilty of an offence, and shall for every such offence be liable to a penalty not exceeding five pounds.

Bull-baiting,
dog-fighting,
&c.

2. Every person who shall keep or use or act in the management of any place for the purpose of fighting or baiting any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature, or shall permit or suffer any place to be so used, shall be guilty of an offence, and every such offender shall be liable to a penalty not exceeding five pounds for every day he shall so keep or use or act in the management of any such place, or permit or suffer any place to be used as aforesaid: Provided always, that every person who shall receive money for the admission of any other person to any place kept or used for any of the purposes aforesaid shall be deemed to be the keeper thereof; and every person who shall in any manner encourage,

[¹ Short title, "The Cruelty to Animals (Scotland) Act, 1850." See 55 & 56 Vict. c. 10.]

aid, or assist at the fighting or baiting of any bull, bear, badger, dog, cock, or other animal as aforesaid, shall be guilty of an offence, and be liable for every such offence to a penalty not exceeding five pounds.

3. No person shall keep or use any house or place for the purpose of slaughtering or killing any horse or other animal (which shall not be intended for butchers' meat) without first taking out a licence for that purpose, which licence every sheriff within his own county is hereby authorized to grant, upon being satisfied that the person applying for such licence is a proper person for keeping such house or place, and upon payment of a sum not exceeding five shillings to the sheriff clerk for making out and recording such licence; and a copy of such licence shall be recorded in the sheriff clerk's books; and any person shall at all reasonable hours be entitled to inspect such books, and to make any extract relating to such licence therefrom, upon payment to the sheriff clerk of sixpence for such inspection and extract; and every person so licensed shall cause to be painted in large legible characters, on a board to be affixed over the gate or door of such house or place, his or her name, with the words "Licensed for slaughtering horses, pursuant to an Act passed in the session of Parliament holden in the thirteenth and fourteenth years of the reign of her Majesty Queen Victoria"; and any person failing so to do shall be guilty of an offence, and shall be liable to a penalty not exceeding five pounds for such offence, and a farther penalty of five pounds for every day during which such board shall not be so affixed.

Keepers of slaughter-houses for killing horses &c. to be licensed.

Persons licensed to affix over door, &c. a board, with their names, &c.

4. Every person keeping or using or having the management of any place for slaughtering horses or other cattle (not intended for butchers' meat) shall, at the time of receiving any horse or other cattle in such place, enter in a book such a full and correct description of the colour, marks, and gender of such horse or other cattle as may clearly distinguish and identify the same; and if any such person shall refuse or neglect to make such entry in a clear and distinct manner, or shall refuse or neglect to produce such book before any magistrate, whenever required by such magistrate so to do, or shall refuse to allow such book to be inspected, and extracts to be made therefrom, at all reasonable times, by any constable or other person duly authorized by such magistrate, every such person shall be guilty of an offence, and be liable to a penalty for every such offence not exceeding forty shillings.

Description of horses, &c. received for slaughtering to be entered in a book.

5. It shall not be lawful for any person who shall be licensed to slaughter horses, during the time such licence shall be in force, to . . . exercise or use the trade or business of a dealer in horses; . . .

Licensed slaughterers not to trade as horse dealers.

6. When and so often as any of the offences against the provisions of this Act shall be committed, it shall and may be lawful for any constable, upon his own view thereof, or upon the complaint and information of any other person who shall

Apprehension of offenders.

declare his or her name and place of abode to the said constable, to seize and secure, by the authority of this Act, any offender, and forthwith, without any other authority or warrant, to convey such offender before a magistrate, to be dealt with for such offence according to law.

Limitation of time for preferring complaint, &c.

7. Every complaint under the provisions of this Act shall be made within one calendar month after the cause of such complaint shall arise; and where such complaint shall be made to the sheriff, it shall be competent to such sheriff to proceed in and to try and to dispose of the same, in the same way and manner, or as nearly as may be in the same way and manner, as any summary criminal case may be proceeded in, tried, and disposed of, by any sheriff in Scotland; and where such complaint shall be made to a justice of the peace or other magistrate, it shall be competent to such justice or magistrate to proceed in and to try and to dispose of the same, in the same way and manner, or as nearly as may be in the same way and manner, as justices of the peace or other magistrates in Scotland may proceed in, try, and dispose of summarily, any offence against police, or any breach of the peace.

Powers of magistrate as to fines and imprisonment.

8. In every case of a conviction under this Act, where the sum imposed as a penalty, together with costs (if any) awarded, by any magistrate, for or in respect of any offence against the provisions of this Act, shall not be paid immediately upon the conviction, or within such time as the convicting magistrate shall in the exercise of his discretion appoint and limit, it shall be lawful for such magistrate, and he is hereby required, to adjudge the offender to be imprisoned for any time not exceeding two calendar months, unless payment be sooner made: Provided always, that it shall be lawful for such magistrate, if he shall think fit, instead of imposing a pecuniary penalty, forthwith to adjudge any such offender to be imprisoned for any time not exceeding three calendar months.

Detention of vehicles, &c. in charge of persons apprehended.

9. Whenever any person having charge of any vehicle or any animal shall be taken into custody by any constable for any offence against the provisions of this Act, it shall be lawful for such constable to take charge of such vehicle or animal, and deposit the same in some place of safe custody, as a security for payment of any penalty to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expences which may have been or may be necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any magistrate before whom the case shall have been heard to order such vehicle or such animal to be sold for the purpose of satisfying such penalty and reasonable expences, in default of payment thereof.

Limitation of actions.

10. No action shall be brought against any magistrate or other person for anything done in pursuance or under the authority of this Act, unless such action shall be commenced

within two calendar months next after the fact committed; and no action shall be commenced until one calendar month at least after a notice in writing of such intended action shall have been delivered to the defender, or left for him at his usual place of abode, by the party intending to commence such action, or by his agent, in which notice the cause of action shall be clearly and explicitly stated, and upon the back thereof shall be endorsed the name and place of abode of the parties so intending to sue, and also the name and place of abode or of business of such agent, if such notice shall have been served by such agent.

11. The following words and expressions shall have the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction; (that is to say,) Interpretation of terms.

The word "magistrate" shall be taken to mean a sheriff, or justice of the peace, or other magistrate, for the county, city, burgh, or other jurisdiction, in which any offence against this Act shall be committed, or in which the matter requiring the cognizance of such sheriff, justice of the peace, or magistrate, shall arise :

The word "animal" shall be taken to mean any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal :

The word "constable" shall be taken to mean any sheriff officer, police officer, special constable, justice of peace constable, or any person belonging to any constabulary force in any part of the United Kingdom :

Words denoting the singular number shall include the plural number, and words denoting the masculine gender shall include persons and animals of the feminine gender :

The word "over-drive" shall also signify "over-ride."

12. Nothing contained herein shall prevent any act which may be an offence under this Act, but which could have been prosecuted and punished as an offence at common law, or under any Act, if this Act had not passed, from being so prosecuted and punished as if this Act had not passed. Saving as to prosecutions at common law or under statute.

[*S. 13 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

CHAPTER XCIV.

AN ACT to amend the Acts relating to the Ecclesiastical Commissioners for England.[¹] [14th August 1850.]

[*Preamble recites 6 & 7 Will 4. c. 77 ; 3 & 4 Vict. c. 113 ; 4 & 5 Vict. c. 39.*]

[1.] It shall be lawful for her Majesty, by warrant under her royal sign manual, to appoint two lay members of the Church of Appointment of Church Estates Commissioners.

[¹ Short title "The Ecclesiastical Commissioners Act, 1850." See 55 & 56 Vict c. 10.]

England to be commissioners for the purposes of this Act, by the title of First and Second Church Estates Commissioners; and it shall be lawful for her Majesty upon every vacancy in the office of First or Second Church Estates Commissioner to appoint in like manner some other lay member of the said church to such office; and it shall be lawful for the Archbishop of Canterbury for the time being to appoint, under his hand and archiepiscopal seal, one member of the said church to be a commissioner for the purposes of this Act, by the title of a Church Estates Commissioner, and upon every vacancy in the office of a Church Estates Commissioner so appointed to appoint in like manner some other member of the said church to such office; and every Church Estates Commissioner appointed by her Majesty shall hold his office during her Majesty's pleasure; and every such commissioner appointed by the said archbishop shall hold his office during the pleasure of the said archbishop for the time being; and every Church Estates Commissioner shall, by virtue of such appointment and so long as he shall hold his office of Church Estates Commissioner, be an Ecclesiastical Commissioner, and a member of the body corporate of "The Ecclesiastical Commissioners for England," in addition to the other members for the time being of such body corporate: Provided always, that any of the lay ecclesiastical commissioners appointed by name, and not by virtue of any office, shall be capable of being appointed as aforesaid to the office of Church Estates Commissioner, but any such ecclesiastical commissioner may after his removal from or resignation of the office of Church Estates Commissioner continue to hold his appointment as ecclesiastical commissioner so long as he shall well demean himself as such ecclesiastical commissioner (unless he expressly resign such last-mentioned appointment).

Salaries of two
Church Estates
Commissioners.

2. There shall be paid to the First Church Estates Commissioner a salary not exceeding the yearly sum of one thousand two hundred pounds, and to the Church Estates Commissioner appointed by the said archbishop a salary not exceeding the yearly sum of one thousand pounds, to be determined by the Treasury; and such salaries shall be paid out of the monies from time to time in the hands of the Ecclesiastical Commissioners.

First Commis-
sioner may sit
in House of
Commons.

3. The First Church Estates Commissioner for the time being shall be capable of being elected and of sitting and voting as a member of the House of Commons.

Commissioners
to sign decla-
ration.

4. Every Church Estates Commissioner so appointed as aforesaid, before he proceed to do any act by virtue of his appointment, shall (unless at the time of such appointment he be an ecclesiastical commissioner, and have subscribed the declaration hereinafter mentioned,) subscribe the like declaration as by the recited Acts is required to be subscribed by the other lay members of the said corporation.

First Church
Estates Com-
missioner and

5. . . . the First Church Estates Commissioner and the Church Estates Commissioner appointed by the said archbishop shall be

joint treasurers of the said corporation, but shall not as such treasurers be entitled to any salary other than their respective salaries as Church Estates Commissioners under this Act; and the secretary of the said corporation shall be appointed and liable to be removed as is provided by the first-recited Act; and all provisions in any Act of Parliament, assurance, or instrument whatever, concerning the payment of money to the treasurer and secretary for the time being of the said corporation, or for making the receipts of such treasurer and secretary discharges for money, shall be applicable to the joint treasurers for the time being of the said corporation, as if such joint treasurers had been mentioned therein instead of such treasurer and secretary.

commissioner
appointed by
archbishop
to be joint
treasurers.

6. Upon the appointment of a First Church Estates Commissioner under this Act, all lands and hereditaments, of any tenure, which are now vested in Charles Knight Murray, esquire, the late secretary and treasurer of the said corporation, for any estate or interest whatever, in trust for the said Ecclesiastical Commissioners, and all powers which are now vested in the said Charles Knight Murray under any mortgage or other security, in trust for the said Ecclesiastical Commissioners, shall be vested in such First Church Estates Commissioner, by virtue of his appointment, for the like estate and interest, and in like manner, as the same are now vested in the said Charles Knight Murray; and all lands, hereditaments, and powers, which from time to time by virtue of this Act, or under any assurance, or security hereafter made, shall be vested in any First Church Estates Commissioner, in trust for the said Ecclesiastical Commissioners, and shall continue vested in such First Church Estates Commissioner at the time of his ceasing to be such commissioner, shall, immediately upon the appointment of a First Church Estates Commissioner in his place, be vested in such commissioner, by virtue of his appointment, for the like estate and interest, and in like manner, as the same were vested in the immediately preceding First Church Estates Commissioner at the time of his ceasing to be such commissioner: Provided, that where any copyhold or customaryhold land becomes vested in any First Church Estates Commissioner by virtue of this Act, such First Church Estates Commissioner shall in each such case be admitted thereto, in trust as aforesaid, and the like fees, fines, or sums of money shall be paid in respect of such admittance as would have been payable in respect of the admittance of an heir.

Estates held in
trust for the
Ecclesiastical
Commissioners
to be vested
in the First
Church Estates
Commissioner.

Fines on ad-
mittance to
copyhold land.

7. The Church Estates Commissioners for the time being shall be a committee of the said corporation, to be styled "The Estates Committee," but the said Ecclesiastical Commissioners may in the month of February in every year, by an instrument under their common seal, appoint two members of the said corporation (of whom one at least shall be a layman who shall have been appointed an ecclesiastical commissioner by name, and not in right of any office,) to be members of such Estates Committee, in addition to the Church Estates Commissioners; and the two

Appointment
of additional
members of
Estates Com-
mittee by
Ecclesiastical
Commissioners.

members so appointed from time to time shall cease to be members of such committee at the end of the month of February next after their appointment, or upon the appointment of others in their stead, which shall first happen, but every such member of such committee shall be capable of being re-appointed; and on any vacancy occurring among such two members the said Ecclesiastical Commissioners may appoint to supply such vacancy, until the next annual appointment, any commissioner who might have been originally appointed, but the said Estates Committee may act notwithstanding any vacancy among or non-appointment of such two members as aforesaid.

Estates Committee to manage all the estates of the commissioners.

8. It shall be the duty of such Estates Committee, or any three of them, of whom two or more shall be Church Estates Commissioners, to consider all matters in any way relating or incident to the sale, purchase, exchange, letting, or management, by or on behalf of the Ecclesiastical Commissioners of any lands, tithes, or hereditaments, and to devise such measures touching the same as shall appear to such committee to be most expedient; and such Estates Committee, or any three of them, of whom two or more shall be Church Estates Commissioners, shall have full power and authority, subject to such general rules as are herein-after mentioned, and as shall have been made by the said Ecclesiastical Commissioners, to do and execute any act, including the affixing of the common seal to any scheme or other instrument, within the power of the said Ecclesiastical Commissioners, in respect of the sale, purchase, exchange, letting, or management, of any lands, tithes, or hereditaments: Provided always, that no such act shall be done or executed by the said Ecclesiastical Commissioners otherwise than by the said Estates Committee, nor by such committee unless with the concurrence of two at least of the Church Estates Commissioners.

Chairman of Estates Committee.

9. At all meetings of the Estates Committee the First Church Estates Commissioner shall preside, or, if he shall be absent, the other Church Estates Commissioner appointed by her Majesty or the Church Estates Commissioner appointed by the archbishop, shall be chairman at alternate meetings; and in case of an equality of votes the chairman shall have a second or casting vote.

Quorum at meetings of Ecclesiastical Commissioners.

10. No act, matter, or thing shall be done or performed at any meeting of the said Ecclesiastical Commissioners, unless two or more of the Church Estates Commissioners be present.

Ecclesiastical Commissioners may make special references to Estates Committee.

11. The said Ecclesiastical Commissioners at any time and from time to time may refer to the consideration of the said Estates Committee any matters in addition to the matters which are to be considered by such Estates Committee under the provision herein-before contained, for the report of such Estates Committee thereon, or by an instrument under their common seal may authorize the said committee, or the said Church Estates Commissioners, or any two of such commissioners, to do and complete any act within the powers of the said Ecclesiastical

Commissioners, in addition to the acts which the said Estates Committee are herein-before authorized to do and execute, except affixing the said common seal to any scheme to which the said Estates Committee are not herein-before authorized to affix such seal without reporting to or requiring further instructions from the said Ecclesiastical Commissioners.

12. It shall be lawful for the said Ecclesiastical Commissioners from time to time to make general rules for the direction of the Estates Committee relative to the matters and acts to be considered, done, and executed by such Estates Committee, in which rules the said Ecclesiastical Commissioners may not only establish general regulations for the transaction of the business of such committee, but may declare the general principles which shall guide the decision of such committee, and the said Ecclesiastical Commissioners may from time to time revise and by other general rules vary the same, as the said Ecclesiastical Commissioners shall think fit; and all such general rules shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting of Parliament.

General rules
for the direc-
tion of the
Estates Com-
mittee.

13. . . . the Archbishop of Canterbury, if present at the commencement of any meeting, shall be chairman, but if he be not present a chairman shall be appointed at each meeting of the said commissioners; and if any difference arise upon the choice of a chairman at any meeting, such chairman shall be chosen by the majority of votes of the commissioners present thereat, and in case there be an equal number of votes upon such choice, then the commissioner proposed first in rank and precedence, and, in case of the equality in rank and precedence of the commissioners proposed, then the senior in order of appointment of the commissioners proposed, shall preside as chairman; and the commissioner who takes the chair at the commencement of any meeting may continue to preside during such meeting.

Chairman at
meetings of
Ecclesiastical
Commissioners.

14. The accounts of the said Ecclesiastical Commissioners shall be audited from time to time in such manner and at such times as shall be directed by the Treasury; and the Treasury may from time to time appoint any person to be an auditor of such accounts, and may remove any such auditor.

Audit of
accounts of
commissioners.

15. And whereas the fund accruing to the Ecclesiastical Commissioners under the first-recited Act, and other property and revenues accruing to the said commissioners from like sources, have been carried to a separate fund or account designated as the "Episcopal Fund," and have been held applicable only to the purposes of the first-recited Act, and other episcopal purposes; . . . Be it enacted, that the fund accrued and accruing to the said Ecclesiastical Commissioners under the first-recited Act, and all other the monies, revenues, and

Episcopal fund.

property carried to or deemed part of the said episcopal fund, or which if this Act had not been passed might have been carried to or deemed part of the said episcopal fund, or have been applicable to the purposes thereof, shall be carried to and form part of the common fund mentioned in the said secondly-recited Act, and be applicable to the purposes of such common fund; and that all the several payments and provisions now payable out of or charged upon the said episcopal fund and common fund respectively, or out of or upon the property applicable to the purposes of the said respective funds, or which if this Act had not been passed might have been payable out of or charged upon such funds and property respectively, shall and may be payable out of and charged upon the said common fund, and the property applicable, and under this Act and otherwise to become applicable, to the purposes thereof: Provided always, that it shall be lawful for the Ecclesiastical Commissioners, if they shall think fit, at the request of the bishop, to provide for the spiritual necessities of any parish where the tithes form part of the episcopal revenue, in the same manner as if those tithes arose from a sinecure rectory in the possession of the Ecclesiastical Commissioners.

[*Ss. 16, 18 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 17 rep. 23 & 24 Vict. c. 124 s. 1.*]

Deans not to hold any benefice not situated within the city or town, &c.

19. No spiritual person appointed to the deanry of any cathedral or collegiate church shall accept, to take and hold therewith, any benefice not situate within the city or town of the cathedral or collegiate church in which he shall hold such deanry; and where any spiritual person so appointed holds at the time of his admission to such deanry any benefice not situate within such city or town, such benefice, unless sooner avoided, shall become void on the expiration of six calendar months from the time of his admission to such deanry: Provided always, that the income of any benefice which may be holden with any such deanry shall in no case exceed the amount or sum of five hundred pounds per annum.

20. And whereas the secondly and thirdly recited Acts contain provisions under which all lands, tithes, tenements, and other hereditaments and endowments (except any right of patronage) belonging to any prebend not residentiary in any cathedral or collegiate church in England become from time to time, as vacancies occur in such prebends, vested in the said Ecclesiastical Commissioners for the purposes in the same Acts specified, and the same Acts contain provisions for enabling the said commissioners, with the sanction of her Majesty in council, in manner by the same Acts specified, to make any arrangements, with the consent in writing of the holder of any such prebend, for substituting in any case any money payment for any such lands, tithes, tenements, or hereditaments, but every prebend which is permanently annexed to any bishoprick, arch-

deaconry, professorship, or scholarship, or to any school, or to the mastership thereof, are exempted from the operation of all the said provisions: And whereas it is expedient that the last-mentioned of the said provisions, relating to the substitution of a money payment for any lands, tithes, tenements, or hereditaments, should be extended to the prebends so exempted as aforesaid, with a view to enabling the said commissioners to make the tithes or other property belonging thereto more conducive to the spiritual welfare of the several parishes or places dependent thereon or connected therewith: Be it therefore enacted, that it shall be lawful, by the authority in the secondly and thirdly recited Acts provided, with the consent in writing of the patron of the dignity or office to which the same is annexed, to make any arrangement for vesting in the said Ecclesiastical Commissioners all or any of the lands, tithes, tenements, and hereditaments, or other endowments, of the same prebend, and to substitute for the same any just and reasonable money payment to such holder, and all future perpetual annual payments to his successors in the same dignity or office, as shall be deemed by the like authority to be fit and proper, and also, with the consent in writing under the hand of such last-mentioned patron, to make any arrangement which shall be deemed fit as to the future exercise of the patronage of any benefice with cure of souls now held by the holder of such prebend for the time being as such holder;

Provisions as to endowments of prebends and patronage. 3 & 4 Vict. c. 113. and 4 & 5 Vict. c. 39.

21. All lands, tithes, tenements, and other hereditaments and endowments which shall so become vested in the said Ecclesiastical Commissioners shall be by them held, possessed, and administered for the purposes and under and according to the several provisions of the same Acts, as amended by this Act, which apply to lands, tenements, and other hereditaments and endowments, by and under the same Acts vested or liable to be vested in the said Ecclesiastical Commissioners.

Lands, &c. of prebends so vested in commissioners to be subject to similar uses as lands, &c. vested under former Acts.

22. And whereas certain benefices with cure of souls are annexed to or have long been accustomedly held with the several sees of Gloucester and Bristol, Oxford, and Peterborough; and it is expedient that such benefices should be severed from the said sees, and that the endowments thereof should be applied as herein-after mentioned: Be it enacted, that so soon as conveniently may be the said several benefices shall, by the authority by the secondly and thirdly recited Acts provided, be detached and dissevered from the said sees respectively, and the tithes, glebe, and other endowments belonging to the said benefices respectively shall, by the like authority, by means of division of united parishes, endowment of district churches, or such other arrangements as the case may require, be distributed and appropriated in such manner, within the limits of the respective parishes, as shall be deemed most conducive to the spiritual welfare of the inhabitants thereof respectively; and that immediately from and after the severance of each such

Provision as to benefices annexed to sees of Gloucester and Bristol, Oxford, and Peterborough.

benefice the same shall, subject to such distribution and appropriation as aforesaid, be a rectory or vicarage, as the case may be, with cure of souls, in the patronage of the bishop of the diocese from which the same shall have been severed, and his successors, but subject nevertheless to the provisions of the first-recited Act relating to the patronage of bishops; . . .

Owners of impropriation tithes, &c. may annex the same to or settle them in trust for the parsonage or vicarage.

23. The owner or proprietor of any impropriation tithes, portion of tithes, or rent-charge in lieu of tithes, shall and may have power to annex the same or any part thereof unto the parsonage, vicarage, or curacy, of the parish church or chapel where the same lie or arise, or to settle the same in trust for the benefit of such parsonage, vicarage, or curacy, any statute or law whatsoever to the contrary thereof in anywise notwithstanding.

Arrangements with reference to peculiar or exempt jurisdictions.

6 & 7 Will. 4. c. 77. s. 10.

24. The arrangements with reference to peculiar or exempt ecclesiastical jurisdictions, which the said commissioners are under the provisions of the said first recited Act empowered and authorized to propose in any scheme for carrying into effect any of the recommendations therein recited, may be recommended and proposed in any scheme or schemes, whether relating to such arrangements solely, or also to any other matter and thing contained in any or either of the said recited Acts or this Act.

Transfer to the commissioners of the estates of newly endowed archdeacons, and disannexation of benefices therefrom. 3 & 4 Vict. c. 113. s. 56.

25. . . . the provisions of the same Act [¹] which relate to the transfer to the said commissioners of the estates of any archdeaconry upon its endowment in either of the modes therein provided, and also to the disannexing from any such archdeaconry of any benefice with cure of souls, shall be construed and held to authorize such transfer or such disannexation, with the consent of the bishop of the diocese, and of the archdeacon in possession of the archdeaconry at the time, or, if the archdeaconry be then vacant, with the consent of the bishop only; and the provisions of the same Act as amended by this Act, for disannexing any benefice from any archdeaconry endowed as aforesaid, and concerning the patronage of such benefice, shall extend and be applicable for disannexing any benefice from any archdeaconry not so endowed and to the patronage of such benefice.

Annual report of all proceedings of the Ecclesiastical Commission.

26. The said Ecclesiastical Commissioners shall in each year, on or before the first day of March, make a report under the corporate seal of the said commission, to one of her Majesty's Principal Secretaries of State, of all the proceedings of the said commission for the year preceding the first day of November then last past, and shall annex to such report copies of the schemes sanctioned and approved by the Queen in Council during such year, and also an abstract of the accounts of the said commission during such year; and within fourteen days after the receipt thereof such report shall be laid before both Houses of Parliament, if Parliament be then sitting, and

[¹ i.e. the secondly recited Act 3 & 4 Vict. c. 113. referred to in the repealed portion of the section.]

if not, within fourteen days after the then next meeting of Parliament.

27. The powers and authority relating to the alteration of the boundaries of districts, contained in the New Parishes Act, 1844, may, . . . notwithstanding the limitation in the same Act contained, be exercised . . . as to every such district hereafter to be constituted within five years from the date of the licence of the minister first licensed thereto, and this notwithstanding that any such district may have become a new parish by virtue of the provisions of the Act under which such district was constituted.

Alteration of the boundaries of districts. 7 & 8 Vict. c. 94. s. 9.

28. All the powers and authorities vested in her Majesty in council, and in the said commissioners, by the said secondly and thirdly recited Acts, with reference to the matters therein contained, and all other the provisions of the same Acts relating to schemes and orders prepared, made, and issued for the purposes thereof, shall, so far as the same are consistent with the provisions of this Act, be continued and extended to apply to her Majesty in council, and to the said Ecclesiastical Commissioners, and to all schemes and orders prepared, made, and issued by them respectively, with reference to all matters contained in this Act, as fully and effectually as if the said powers, authorities, and other provisions were repeated in this Act.

Powers, &c. of former Acts extended to this Act.

[S. 29 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER XCVII.

AN ACT . . . to amend the Laws relating to Stamp Duties.
[14th August 1850.]

[*Whole Act, except part here printed, rep. 33 & 34 Vict. c. 99.*]

8. If any person shall have received or gotten into his hands, or shall receive or get into his hands, any sum or sums of money as and for . . . the duty upon or in respect of any legacy or residue, and shall improperly neglect or omit to appropriate such sum or sums of money to the due payment of such duty, or shall otherwise by or under any means or pretence whatsoever improperly withhold or detain the same, every such person shall be accountable for the amount of such duty or sum or sums of money, and the same shall be a debt from such person to her Majesty, and recoverable as such accordingly; and it shall be lawful for the barons of her Majesty's Court of Exchequer in England, Scotland, or Ireland, respectively, upon application to be made for that purpose on behalf of the Commissioners of Inland Revenue, upon such affidavit as to such court may appear sufficient, to grant a rule requiring such person, or his executor or administrator, to show cause why he should not deliver to the said commissioners an account upon oath of all such duties and sums of money as aforesaid, and why the same

All persons receiving monies for duties on legacies or residues, and misappropriating the same, to be liable for the amount

should not be forthwith paid to the Receiver General of Inland Revenue, or to such person as the said commissioners shall appoint or authorize to receive the same; and it shall be lawful for such court to refer the taking or auditing of any such account to the proper officer of such court, who shall examine any such person as a debtor or alleged debtor to the crown, on personal interrogatories, if such court shall think proper so to do; and it shall be lawful for such court to make absolute any such rule as aforesaid in every case in which the same may appear to such court to be proper and necessary, and to enforce by attachment or otherwise the payment of any such duties or sums of money as on such proceedings shall appear to such court to be due, together with the costs of such proceedings.

CHAPTER XCVIII.

AN ACT to amend the Law relating to the holding of Benefices in Plurality.^[1] [14th August 1850.]

[*Preamble recites 1 & 2 Vict. c. 106.*]

[*Ss. 1, 2 (as to spiritual person holding two benefices) rep. 54 & 55 Vict. c. 67 (S.L.R.) See provisions substituted by 48 & 49 Vict. c. 54, s. 14.*]

Explanation
of term
"benefice."

3. The term "benefice" in this Act shall be taken to mean benefice with the cure of souls, and no other, and therein to comprehend all parishes, perpetual curacies, donatives, endowed public chapels, parochial chapelries, and chapelries or districts belonging or reputed to belong, or annexed or reputed to be annexed, to any church or chapel, anything in any other Act to the contrary notwithstanding.

How annual
value shall be
estimated.

4. For the purpose of estimating the annual value of such benefice there shall be considered as deducted from the gross amount of the annual value all taxes, rates, tenths, dues, and permanent charges and outgoings, but not to deduct or allow for any stipend or stipends to any stipendiary curate or curates, nor for such taxes or rates in respect of the house of residence of any benefice, or of the glebe land belonging thereto, as are usually paid by tenants or occupiers, nor for monies expended in the repair or improvement of the house of residence and buildings and premises belonging thereto.

Offices not to
be held by
deacons of
cathedrals.

5. It shall not be lawful for any person appointed to the deanery of any cathedral church to hold the office of head ruler of any college or hall within either of the universities of Oxford or Cambridge, or the office of provost of Eton College, or of warden of Winchester College, or of master of the Charter

[¹ Short title, "The Pluralities Act, 1850." See 55 & 56 Vict. c. 10.]

House, together with his deanry : Provided always, that nothing herein contained shall apply to the dean of the cathedral church of Christ in Oxford as chief ruler of the college there maintained.

6. Anything in the said recited Act to the contrary notwithstanding it shall not be lawful for any spiritual person, being head ruler of any college or hall within either of the universities of Oxford or Cambridge, or being warden of the university of Durham, and also holding any benefice, to take and hold therewith any cathedral preferment or any other benefice, or for any such spiritual person, also holding any cathedral preferment, to take and hold therewith any benefice : Provided always, that nothing in this Act contained shall be construed to prevent any such spiritual person from holding any benefices or cathedral preferment permanently attaching to or forming part of the endowment of his office.

Benefices not to be held by heads of colleges in the universities.

7. If any spiritual person holding any benefice or benefices shall accept any other benefice, and shall be admitted, instituted, or licensed thereto, contrary to the provisions of this Act, every such benefice or benefices which he previously held shall become ipso facto void, as if he had died or resigned the same, any law, statute, canon, usage, custom, faculty, or dispensation whatsoever to the contrary notwithstanding.

Admission, &c. of person holding one benefice to another shall vacate the first.

8. And whereas in the said recited Act a provision is contained authorizing the union, by order of Her Majesty in council, after such inquiry and notice and with such consent and upon such certificate as therein mentioned, of two or more benefices, or of one or more benefice or benefices and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish, or contiguous to each other, of which the aggregate population shall not exceed one thousand five hundred persons, and the aggregate yearly value shall not exceed five hundred pounds : Be it enacted, that the said provision of the said Act shall extend and be applicable to and for the union of two or more benefices, or one or more benefice or benefices and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish or contiguous to each other, and of which the aggregate population shall not exceed one thousand five hundred persons, notwithstanding the aggregate yearly value shall exceed five hundred pounds, in like manner and with the like preliminaries and consequences as if the words "and the aggregate yearly value shall not exceed five hundred pounds" had not been inserted in the provision lastly herein-before referred to : Provided always, that it shall be lawful for the bishop to direct that there shall be two full services in each church of such consolidated livings.

1 & 2 Vict. c. 106. s. 16.

Her Majesty in council may authorize union of benefices though the aggregate yearly value shall exceed 500*l*.

[S. 9 *rep.* 38 & 39 *Vict.* c. 66. (*S.L.R.*) S. 10 *rep.* 54 & 55 *Vict.* c. 67. (*S.L.R.*)]

11. The provisions of the Ecclesiastical Commissioners Act, 1841, which authorize the holding of more benefices than one

As to holding benefices with honorary

canonries, &c.
4 & 5 Vict.
c. 39.

with an honorary canonry, or with any prebend, dignity, or office, not then in any manner endowed, or whereof the endowments shall have been vested in the Ecclesiastical Commissioners, or which might thereafter be endowed to an amount not exceeding twenty pounds by the year, shall be extended so as authorize the holding of one benefice and one cathedral preferment in the same church with such honorary canonry, prebend, dignity, or office.

[S. 12 *rep.* 54 & 55 *Vict. c.* 67. (S.L.R.) S. 13, *local and personal.*
S. 14 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CI.

AN ACT . . . to make certain Amendments in the Laws
for the Relief of the Poor.[¹] [14th August 1850.]

[*Preamble recites, that under 11 & 12 Vict. c. 110 costs of relief and expenses of burial of certain poor persons, and under 12 & 13 Vict. c. 103 costs of removing and maintaining certain pauper lunatics, were made chargeable on the common fund of the union.*]

Certain provisions of
11 & 12 Vict.
c. 110. and of
12 & 13 Vict.
c. 103. applied
to certain
incorporated
hundreds.

[1.] All the said several . . . provisions in the said recited Acts above referred to . . . shall apply, and shall be held to have applied, to the incorporated hundred of Forehoe, to the incorporated hundreds of East and West Flegg . . . in the county of Norfolk, and to the incorporated hundred of Mutford and Lothingland in the county of Suffolk, in like manner and to the same extent as to the unions in the said Acts referred to.

Guardians
may contribute
towards enlargement
or purchase of
burial ground,
and may bury
therein the
bodies of poor
persons dying
in workhouses.

2. It shall be lawful for the guardians of any union to contribute out of the common fund, or for the guardians of any parish to contribute out of the poor rates of such parish, such sum of money as the Poor Law Board shall approve, towards the enlargement of any churchyard or consecrated public burial ground in the parish wherein the workhouse shall be situated, or in any other parish of the union, or towards the obtaining of any such consecrated public burial ground; and where any such burial ground shall be enlarged or obtained with the aid of such contribution, it shall be lawful for them to bury therein the dead body of any poor person dying in such workhouse: Provided always, that nothing in this Act contained shall discharge or vary the obligation now imposed by law upon the guardians to bury the dead body of such poor person elsewhere, in case the deceased person, or the husband, or wife, or next of kin of such deceased person, shall have so requested: Provided also, that in all cases of burial under the direction of the guardians as aforesaid the fee or fees payable by the custom of the place

[¹ Short title, "The Poor Law Amendment Act, 1850." See 55 & 56 Vict. c. 10.]

where the burial may be, or under the provisions of any Act of Parliament, shall be paid by the said guardians for the burial of each such body to the person or persons who by such custom or under such Act shall be entitled to receive such fee or fees, and charged by them in like manner as the relief to the deceased when living was last chargeable.

3. In addition to the principal sum or sums of money which the board of management of a school district formed under the authority of the Poor Law Amendment Act, 1844, are empowered to raise or borrow for the purpose of providing a building for the school of such district, such board may, whenever any part of such district is situated within the metropolitan police district, with the consent and order of the Poor Law Board, also raise or borrow and charge the future poor rates of the unions and parishes respectively combined in such district with such further or other sum or sums of money as may be or may have been necessary for the purchase of any land, or interest in land, required for the site of such school, or required for the training of the children maintained thereat, or for the site of any addition to such school.

Powers of boards of management in metropolitan police district as to purchase of sites for schools.
7 & 8 Vict. c. 101.

4. [*Recital of 4 & 5 Will. 4. c. 76. s. 62; 12 & 13 Vict. c. 103. s. 20.*] It shall be lawful for the guardians of any union or parish, in like manner and subject to the same regulations, limitations, and restrictions, as are contained in the said last-mentioned Act, but with the consent in writing of the guardian or the majority of the guardians of the parish of the chargeability in place of the parish of the settlement, transmitted as therein specified, to expend money in and about the emigration of any poor orphan or deserted child under the age of sixteen years having no settlement, or the place of whose settlement shall not be known, who may be chargeable to some parish in their union or to their parish respectively, and such guardians shall charge the expence so incurred to the same parish to which such orphan or deserted child was chargeable at the time of the emigration; and where any such orphan or deserted child shall be chargeable to the common fund of any union, the guardians of such union shall have the same powers (subject to the same conditions) to procure or assist in procuring the emigration of any such last-mentioned orphan or deserted child as they have with regard to poor persons rendered irremovable by virtue of the Poor Removal Act, 1846: Provided always, that no emigration of any such orphan or deserted child, under any of the above-mentioned powers, shall take place until such orphan or deserted child shall have consented thereto before the justices assembled in petty sessions holden in or near to the union or parish the guardians whereof propose to procure such emigration, and a certificate of such consent, under the hands of two of the justices present thereat, shall have been transmitted to the Poor Law Board.

Emigration of orphans and deserted children.

9 & 10 Vict. c. 66.

Liability of husband for maintenance of lunatic married woman in lunatic asylum, licensed house, or registered hospital.

5. Where any married woman being lunatic shall be duly removed to any asylum, licensed house, or registered hospital, under any of the statutes in such behalf, any two justices having jurisdiction in the place wherein the husband of such lunatic shall dwell, upon application by or on behalf of the guardians of the union, or of the parish having a separate board of guardians, or the overseers of the parish, to which union or parish respectively such lunatic shall be or become chargeable, may summon such husband to appear before them to show cause why an order should not be made upon him to maintain or contribute towards the maintenance of his wife in such asylum, licensed house, or registered hospital; and upon his appearance, or in the event of his not appearing, upon proof of due service of such summons upon him, such justices may (if they think fit) make an order upon him to pay such sum, weekly or otherwise, for or towards the cost of the maintenance of such lunatic, as after consideration of all the circumstances of the case shall appear to them to be proper, and determine in such order how and to whom the payments shall from time to time be made; which order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the Summary Jurisdiction Act, 1848, for the enforcing of orders of justices requiring the payment of a sum of money.

11 & 12 Vict. c. 43.

Disqualification of Master of workhouse and relieving officer, for certain offices.

6. No master of a workhouse, nor any relieving officer, shall be henceforth qualified to be appointed to the office of overseer of the poor, constable, or any other parochial or township office, so long as he shall continue to be such master of a workhouse or relieving officer, except where the Poor Law Board shall authorize any relieving officer to hold a paid office in a parish: Provided always, that no rate or assessment made, nor any other act or thing done, by any such person as such parochial or township officer, nor the service of any notice, demand, order, or process upon him as such, shall, if in other respects legal and sufficient, be deemed invalid by reason only of such disqualification as aforesaid.

Fee to clerk to justices, under 6 & 7 Will. 4. c. 96. s. 6. to be paid by the overseers.

7. And whereas by an Act of the seventh year of his late Majesty King William the Fourth, intituled "An Act to regulate parochial assessments," it is provided, that the justices acting in and for every petty sessions division shall hold special sessions for hearing appeals against the rates of the several parishes within their respective divisions, and shall cause public notice of the time and place of the holding of such special sessions to be given in each parish, but no provision is made for the payment of the costs incurred in preparing and giving of such notice: Be it therefore enacted, that such fee or remuneration as shall have been or shall hereafter be settled by the justices of the peace at their respective general quarter sessions, according to the statute in that behalf, to be paid to the clerks to justices of the peace for the preparing and giving of a notice of a special sessions for this purpose, or, in default thereof, of a notice of any

special sessions, shall be paid by the overseers of each parish comprised within the division for which the special sessions are to be held, and be charged by them upon the poor rate.

8. And whereas by an Act passed in the fifty-fifth year of the reign of King George the Third, intituled "An Act to prevent poor persons in workhouses from embezzling certain property provided for their use; . . . and for other purposes herein mentioned, relating to the poor," and by the Poor Law Amendment Act, 1844, power is given to punish by imprisonment any person or persons deserting, absconding, or running away from any workhouse or workhouses, and carrying away with him, her, or them any clothes, linen, or other goods in the said Act of the fifty-fifth year of the reign of King George the Third enumerated and described: Be it enacted, that in the case of every such offence it shall be lawful for the convicting justice or justices, if he or they shall so think fit, to order and adjudge that the person or persons convicted shall, during the period of imprisonment by law authorized, be kept to hard labour.

55 Geo. 3.
c. 137. s. 2.

7 & 8 Vict.
c. 101. ss. 57,
58.

Persons imprisoned for offences under recited enactments may be kept to hard labour

9. Where any person shall be charged with and convicted of any assault upon any officer of a workhouse or relieving officer in the due execution of his duty, or upon any person acting in aid of such officer, the court may sentence the offender to the same punishment as is provided by law for an assault upon a peace officer or revenue officer in the due execution of his duty, and shall have the same power as in case of such last-mentioned assault to order payment of the costs and expences of the prosecution.

Assaults upon workhouse officers or relieving officers.

[S. 10 *rep.* 45 & 46 *Vict. c.* 50. s. 5.]

11. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it; and all the provisions of the said last-mentioned Act and of the said statutes not repealed shall extend to this Act, except where any such provision would be inconsistent with anything herein contained.

Construction.
4 & 5 Will. 4
c. 76.

12. This Act shall extend only to England and Wales.

Extent of Act.

[S. 13 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER CV.

AN ACT for facilitating the Union of Liberties with the Counties in which they are situate. [14th August 1850.]

[*Preamble.*]

[1.] Where it shall seem expedient to the justices of any liberty, or to the justices of the county in which any liberty is situate, that the union of the liberty with the county in which the same is situated should be effected under this Act, it shall be

Justices of liberty, or of county in which liberty is situated

may petition
for union of
liberty with
county.

lawful for such justices, in general or quarter sessions assembled, to resolve that a petition shall be presented to her Majesty, praying that such union take place, and thereupon to adjourn the further consideration of such petition until notice thereof shall be given as herein-after provided.

Notice to be
given of reso-
lution of
justices.

2. Previously to the consideration of any such petition notice of the resolution of such justices shall be advertised in a London newspaper, and also in some newspaper circulating in the county to which the liberty is proposed to be united, for three successive weeks, and shall also (unless the clerk of the peace of the county and of the liberty is the same person) be given to the clerk of the peace of the county, in case the resolution shall be the resolution of the justices of the liberty, or, in case the resolution shall be the resolution of the justices of the county, to the clerk of the peace of the liberty, and such notice shall be so advertised and given by the clerk of the peace of the county or liberty the justices of which shall come to the resolution, and shall mention the time and place when the petition for union will be taken into consideration by the justices of the county or liberty coming to the resolution; and the said justices shall confer with any person who shall attend the meeting of the said justices for that purpose, and who shall appear to the said justices to be interested in the matter of the said petition, touching the said petition, and such other circumstances as shall appear to the said justices fit to be considered in effecting a union of the liberty with the county under the provisions of this Act; and such petition (which shall set forth the reasons upon which the same is founded, and also the terms and conditions upon or under which it is desired that the union shall take place, and particularly the mode in which the gaol and other property of the liberty, and the debt, if any, charged on the rates of such liberty, is proposed to be dealt with, and the nature and amount of compensation, if any, to be paid to any *custos rotulorum*, hereditary sheriff, clerk of the peace, coroner, treasurer, or other person holding or entitled to any permanent franchise or office in or belonging to the said liberty, and in what manner such compensation is proposed to be raised and paid, and such other matters and things as are proper to be provided for on the union of the liberty with the county,) shall be certified to her Majesty under the hand of the chairman of the justices present when such petition shall be agreed to.

Justices shall
confer with
parties in-
terested.

Petition to
be certified
under hand of
chairman of
justices.

Order on
petition by her
Majesty in
Council.

3. Where petitions as aforesaid as well of the justices of the county as of any liberty situate therein shall be certified as aforesaid to her Majesty, it shall be lawful for her Majesty, if she shall think fit, with the advice of her Privy Council, after taking into consideration such petitions, and also any other petition which may be presented to her by any person concerning any proposed union of the liberty with the county, to order the union of such liberty with the county, from such time, upon such terms and conditions, and subject to such restrictions, and generally in such manner, as to her Majesty, with the advice

aforesaid, shall seem expedient; and it shall be lawful for her Majesty, with the advice aforesaid, to constitute such liberty a separate hundred, or to annex the same to any existing hundred, or in parts to existing hundreds, of such county; and every such order, hereinafter referred to as the "order of union," shall be published in the London Gazette.

4. From and after the time mentioned in any such order of union for the union of any liberty with the county in which it is situate, under the provisions of this Act, save so far as otherwise directed by such order, and subject to the provisions thereof, such liberty shall be taken to be in all respects part of the county to which the same is united under such order, and shall be subject to the jurisdiction of the justices of such county, and the jurisdiction and powers of any justices under any separate commission of the peace theretofore issued for such liberty shall cease, and no separate commission of the peace shall be issued and no separate sessions of the peace shall be holden for any such liberty, any law, statute, letters patent, grant, or charter whatsoever to the contrary notwithstanding; and the sessions to be holden in and for the county shall have full jurisdiction over all things cognizable by the sessions for the liberty, and the caption and venue in every indictment or other proceeding shall be in the county, without naming the liberty; and the inhabitants of the liberty shall, being duly qualified to serve upon juries under the provisions of the Juries Act, 1825, be returned and be liable to serve on juries at the sessions of the peace for the county.

After union, liberty to be part of county, in all respects.

6 Geo. 4. c. 50.

5. Unless otherwise directed by the order of union, and subject to the provisions thereof, the gaol belonging to the liberty shall upon the union of the liberty with the county be a common gaol for the county, and shall be under the control and management of the justices of such county; and all laws and enactments in force with respect to a county gaol, or to persons imprisoned in a county gaol, shall be in force with respect to any and every gaol at the time of such union belonging to the liberty, and to the persons imprisoned therein.

Gaol of liberty to become gaol of county.

6. Save where otherwise directed by the order of the union, and subject to the provisions and directions thereof, every person who shall at the time of the union stand committed to take his trial at any court of gaol delivery, general or quarter sessions of the peace, for the liberty, charged with any offence which the justices of the liberty would have had jurisdiction to try, shall take his trial at the next court of quarter sessions for the county to which such liberty is united, if the offence is cognizable by a court of quarter sessions, and if not, then before the judges of oyer and terminer and gaol delivery at their next circuit; and all persons bound by recognizance to prosecute and give evidence against such offenders shall be bound to appear to prosecute and give evidence at the court at which such offenders shall be tried as aforesaid; and all such recognizances, and all depositions relating to such charges, shall be transmitted to the proper

Persons committed at time of union for trial at any court of sessions for the liberty shall be tried at the sessions for the county.

officer of the court where such offenders shall be tried; and the sheriff, under sheriff, gaolers, and other officers of the county in which such offenders shall be so tried are hereby authorized and required in every such case to receive every prisoner delivered into the custody of the sheriff or removed to the gaol of the county, and him safely keep until delivered in due course of law; and the judges of assize and others named in her Majesty's commission of oyer and terminer and gaol delivery, or the justices of the county, as the case may be, in which such offenders shall be tried, are hereby authorized and required to hear and determine all such cases, and to order the payment of the usual and fit expences of the prosecutors and witnesses, and all other costs and expences which in like case may be directed to be paid by order of court.

Records of
court of ses-
sions of liberty.

7. The *custos rotulorum* of every county to which any liberty shall be united under the provisions of this Act shall, unless otherwise directed by the order of union, become the keeper of records of the court of sessions of the peace of the said liberty, and the records of the said court shall be delivered to such *custos rotulorum* accordingly.

Monies in
hands of
treasurer of
liberty and
required for
compensation,
&c.

8. Save where otherwise directed by the order of union, and subject to the provisions of such order, the treasurer for the liberty shall, upon the union of the liberty with the county, pay over to the treasurer of the county all monies in his hands of or belonging to the liberty; and the treasurer of the county shall stand possessed of and shall apply all such monies for such purposes as the order of union shall direct, and, in default of such direction, as part of the county stock; and, subject to the provisions of the order of union, all such sums as may be required to be raised and paid, for compensation or otherwise, under such order, and may not be paid out of the said monies in the hands of the treasurer of the liberty, shall be defrayed out of the county stock, and shall be raised and paid at such times and in such manner as the justices of the county in general or quarter sessions assembled shall direct.

Interpretation
of terms.

9. In this Act the word "liberty" shall be taken to mean also division of a county, town and county, and soke; and the word "gaol" shall be taken to mean also prison or house of correction; and in describing any person or thing any word importing the singular number shall be construed to mean also several persons or things respectively, unless there be something in the subject or context repugnant to such construction.

Corporate
places within
liberties united
with counties
to be deemed
to be within
those counties.

10. Provided always, that where any borough corporate or other corporate place, or any part thereof, is situate within any liberty united with any county under this Act, such borough or place, or part thereof, as aforesaid, from the time of such union (save as otherwise directed by the order of union) shall be deemed to be within and part of such county, for all purposes for which before such union it was within and part of such liberty and

such borough or place, or part thereof, and such county, respectively, in relation to each other, and the inhabitants and others in respect thereof, shall have and be subject to the like rights, privileges, liabilities, and jurisdiction, which such borough or place, or part thereof, and such liberty, respectively, had and were subject to before such union; and, save as aforesaid, no borough or other corporate place named in either of the schedules to the Municipal Corporations Act, 1835, or to which the provisions of 5 & 6 Will. 4. that Act have been extended by charter or Act of Parliament, c. 76. shall be subject to the provisions of this Act.

11. This Act shall not extend to the borough of Southwark, Extent of Act. to Scotland, or Ireland.

[S. 12 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

14 & 15 VICTORIA. A.D. 1851.

CHAPTER VII.

AN ACT to amend an Act of the Parliament of Ireland of the Twenty-fifth Year of King George the Third, for explaining and amending several Laws for the Encouragement of Agriculture, so far as relates to Leases for the Erection of Mills. [11th April 1851.]

WHEREAS by an Act of the Parliament of Ireland of the twenty-fifth year of the reign of his late Majesty King George the Third, intituled "An Act to explain and amend several 25 Geo. 3. c. 62. " laws now in force for the encouragement of agriculture," it is (I) ss. 12-14. amongst other things enacted, that it shall and may be lawful for . . . the master and governors and fellows of colleges and hospitals, and for every person or persons whatsoever, being seised in possession in law or equity of an estate in fee tail, or for his life with immediate remainder over to or in trust for his issue, to make one or more lease or leases for any term or number of years, or for one, two, or three lives, with covenant of perpetual renewal, of any part or parts of land to them respectively belonging, not being any part of the demesne usually occupied with his or their mansion house, and not exceeding three acres plantation measure in any one such lease, to any person or persons, for the purpose of building corn mills, making mill ponds or mill dams, and that all grants or leases so made shall be good and effectual against . . . the successors of the masters, governors, and fellows of colleges and hospitals respectively, subject to certain provisoes, restrictions, and conditions in the said Act contained relating thereto; and it is by the said Act further enacted, that like leases, with like powers, restrictions, reservations, and covenants, may be made

Leases of lands may be made for erecting mills with machinery to be turned by steam, &c. as under recited Act.

respectively and be valid for the purpose of erecting mills and making mill dams or ponds for any machinery of manufacture to be turned or employed by water : . . .

1. Like leases of lands, with like powers, restrictions, reservations, and covenants, may be made respectively, by like persons, bodies politic, corporate, or collegiate, . . . and other bodies as aforesaid, and shall be valid, for the purpose of erecting mills or factories in Ireland for any machinery of manufacture to be turned or employed by steam or otherwise than by water, as under the provisions of the said recited Act may be made and be valid for the purpose of erecting mills or making mill dams or ponds for any machinery of manufacture to be turned or employed by water.

CHAPTER XI.

AN ACT for the better Protection of Persons under the Care and Control of others as Apprentices or Servants^[1]
[20th May 1851.]

[*Preamble.*]

[*Ss. 1, 2 rep. 24 & 25 Vict. c. 95. s. 1.*]

Register of young persons taken as servants from workhouses.

3. The guardians of every union and of every separate parish under the management of a board of guardians, and the overseers of every parish not in union or under the management of a board of guardians, shall provide and keep a book or books, and shall cause to be registered therein the name of every young person under the age of sixteen who shall hereafter be hired or taken as a servant from the workhouse of such union or parish, together with the several other particulars specified in the schedule hereunto annexed; and every such entry shall be signed by the presiding chairman of such board of guardians at an ordinary meeting thereof, or by some one of such overseers; provided that nothing herein contained shall be taken to supersede or affect the obligation to keep such register of poor children apprenticed by overseers or guardians as is required by the Parish Apprentices Act, 1802, and the Poor Law Amendment Act, 1844.

42 Geo. 3. c. 46.
7 & 8 Vict.
c. 101.

Young persons so taken as servants to be visited by relieving officer, &c.

4. Where any young person under the age of sixteen shall have been or shall be hired or taken as a servant from the workhouse of any union or parish, or shall have been or shall be bound out as an apprentice by the guardians of any union, or the guardians or overseers of any parish, it shall be lawful for such guardians or overseers respectively, and they are hereby required, so long as such young person shall be under the age of sixteen, and shall be known to them to reside as servant or apprentice in the same service into which such young person shall

^[1] Short title, "The Poor Law (Apprentices, &c.) Act, 1851." See 55 & 56 Vict. c. 10.]

have so gone as a servant from such workhouse or as such apprentice within such union or parish respectively, or within five miles of any part of such union or parish, to cause the relieving officer, or, where there is no relieving officer, then some other officer duly authorised for the purpose, to visit such young person at least twice in every year, and to report to them in writing whether he has found reason to believe that such young person is not supplied with necessary food, or is subjected to cruel or illegal treatment in any respect.

5. Where any young person under the age of sixteen shall hereafter be hired or taken as a servant from the workhouse of any union or parish, or shall be bound out as an apprentice by the guardians of any union, or by the guardians or overseers of any parish, and the residence of the master or mistress shall be more than five miles from any part of such union or parish, then a written notice of such hiring, taking, or binding, specifying the name and age of the apprentice or servant, and the name, description, and residence of such master or mistress, shall be forthwith sent from such guardians or overseers to the guardians or overseers of the union or parish in which such master or mistress shall reside; and thereupon it shall become the duty of such last-mentioned guardians or overseers to cause the particulars contained in such notice to be registered in some book or books, to be provided by them for the purpose, together with the name of the union or parish from which such notice shall have been received; and such last-mentioned guardians or overseers shall cause such young person to be visited as frequently and in the same manner in all respects as if such young person had been hired or taken from their own workhouse, or had been bound out as an apprentice by themselves.

Provision in case of residence at a distance from union or parish.

[Ss. 6, 7 *rep.* 24 & 25 *Vict. c.* 95. s. 1.]

8. The words "guardians," "union," "overseers," "justice of the peace," "officer," "poor," "parish," and "workhouse," used in this Act, shall be construed in like manner as in the Poor Law Amendment Act, 1834.

Interpretation.
4 & 5 Will. 4, c. 76.

9. This Act shall extend only to England and Wales.

Extent.

SCHEDULE.

Sect. 3.

FORM of Register.

Name of child.	Age.	Date of hiring or taking as servant.	Name of master or mistress.	Trade or other description of master or mistress.	Residence of master or mistress.

CHAPTER XII.

AN ACT to continue the Duties on Profits arising from Property, Professions, Trades, and Offices, and to amend the Act imposing the same.^[1] [5th June 1851.]

[*Preamble recites 5 & 6 Vict. c. 35.*]

S. 1 (continuing the income tax, rates, and duties for one year), and s. 2 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Abatement to be made from assessments on tenant farmers where profits fall short of such assessments.

5 & 6 Vict. c. 35.

3. If at the end of the year of assessment of the said duties under this Act any person occupying lands for the purposes of husbandry only, and obtaining his livelihood principally from husbandry, who shall have been assessed in the said year to the duties chargeable under schedule (B.) of the Income Tax Act, 1842, in respect of such lands, shall find, and shall prove to the satisfaction of the commissioners by whom the assessment was made, that his profits and gains arising from the occupation of such lands during the said year fell short of the sum on which the assessment was made, it shall be lawful for the said commissioners, upon appeal made to them in that behalf within three calendar months after the expiration of the said year, and of which notice in writing shall be given to the surveyor of taxes for the district, to cause an abatement to be made from the amount of the said duties charged on such appellant proportionate to the deficiency of his said profits and gains; and in case the whole sum assessed shall have been paid, the amount of the sum overpaid shall be certified and repaid in like manner as is provided by section 133 of the Income Tax Act, 1842, in the case of any over-payment of the duties assessed under schedule (D.) of the same Act.

CHAPTER XIII.

AN ACT to regulate the Sale of Arsenic.^[2] [5th June 1851.]

[*Preamble.*]

On every sale of arsenic, particulars of sale to be entered in a book.

1. EVERY person who shall sell any arsenic, shall forthwith, and before the delivery of such arsenic to the purchaser, enter or cause to be entered in a fair and regular manner, in a book or books to be kept by such person for that purpose, in the form set forth in the schedule to this Act, or to the like effect, a statement of such sale, with the quantity of arsenic so sold, and the purpose for which such arsenic is required or stated to be required, and the day of the month and year of the sale, and the name, place of abode, and condition or occupation of the purchaser, into all which circumstances the person selling such

[¹ Extended to Ireland, 16 & 17 Vict. c. 34, s. 5.]

[² Short title, "The Arsenic Act, 1851." See 55 & 56 Vict. c. 10.]

arsenic is hereby required and authorized to inquire of the purchaser before the delivery to such purchaser of the arsenic sold; and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale the words "cannot write"), and, where a witness is hereby required to the sale, shall also be signed by such witness, together with his place of abode.

2. No person shall sell arsenic to any person who is unknown to the person selling such arsenic, unless the sale be made in the presence of a witness who is known to the person selling the arsenic, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the arsenic to the purchaser; and no person shall sell arsenic to any person other than a person of full age.

Restrictions
as to sale of
arsenic.

3. No person shall sell any arsenic unless the same be before the sale thereof mixed with soot or indigo in the proportion of one ounce of soot or half an ounce of indigo at the least to one pound of the arsenic, and so in proportion for any greater or less quantity: Provided always, that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than ten pounds at any one time.

Provision for
colouring
arsenic.

4. If any person shall sell any arsenic, save as authorized by this Act, or on any sale of arsenic shall deliver the same without having made and signed the entries hereby required on such sale, or without having obtained such signature or signatures to such entries as required by this Act, or if any person purchasing any arsenic shall give false information to the person selling the same in relation to the particulars which such last-mentioned person is hereby authorized to inquire into of such purchaser, or if any person shall sign his name as aforesaid as a witness to a sale of arsenic to a person unknown to the person so signing as witness, every person so offending shall for every such offence, upon a summary conviction for the same before two justices of the peace in England or Ireland, or before two justices of the peace or the sheriff in Scotland be liable to a penalty not exceeding twenty pounds.

Penalty for
offending
against this
Act.

5. Provided, that this Act shall not extend to the sale of arsenic, when the same forms part of the ingredients of any medicine required to be made up or compounded according to the prescription of a legally qualified medical practitioner or a member of the medical profession, or to the sale of arsenic by wholesale to retail dealers, upon orders in writing in the ordinary course of wholesale dealing.

Saving as to
medical
prescriptions,
&c.

Interpretation.

6. In the construction of this Act the word "arsenic" shall include arsenious acid and the arsenites, arsenic acid and the arseniates, and all other colourless poisonous preparations of arsenic.

THE SCHEDULE. Sect. 1.

Day of sale.	Name and surname of purchaser.	Purchaser's place of abode.		Condition or occupation.	Quantity of arsenic sold.	Purpose for which required.
1 September 1851.	John Thomas	Hendon	Elm Farm.	Farm labourer.	5 lbs. -	To steep wheat.

(Purchaser's signature.)
John Thomas.
Or, if purchaser cannot write,
seller to put here the words,
"cannot write."

Witness,
James Stone,
Grove Farm, Hendon.

(Seller's signature.)
George Wood.

CHAPTER XIV.

AN ACT to amend the Law for the Registration of certain Persons commonly known as "Compound Householders," and to facilitate the Exercise by such Persons of their Right to vote in the Election of Borough Members to serve in Parliament.^[1] [3d July 1851.]

2 & 3 Will. 4.
c. 45. s. 30.

WHEREAS by the Representation of the People Act, 1832, it is enacted, that . . . it shall be lawful for any person occupying premises in any city or borough which shall return a member or members to serve in any future Parliament to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situated are thereby required to put the name of such occupier upon the rate for the time being; and in case such overseer shall neglect or refuse so to do, such occupier shall nevertheless for the purposes of the said Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: And whereas it is often inconvenient or impracticable for such persons to make continual claim in respect of each rate, and many persons are consequently deprived of the franchise:

^[1] Short title, "The Compound Householders Act, 1851." See 55 & 56 Vict. c. 10.]

[1.] No person so claiming to be rated, and paying or tendering on or before the twentieth day of July in each year the full amount of the rate or rates (if any) due in respect of such premises on the fifth day of January preceding, shall be required to make any further claim in regard to any future rate upon the premises in respect whereof his right to vote in any such election as aforesaid shall arise, but shall be entitled to be put on the list and to be registered as a voter, provided he shall have occupied the premises in the manner and for the time required by the said Act, and provided the poor's rates and assessed taxes chargeable upon the same shall have been paid for the period and up to the time required by law in respect of all persons entitled to vote in the election of members of Parliament for any borough under the provisions of the said Act.

Occupiers having once claimed to be rated in respect of premises, and paying rates, need not make further claim with regard to future rates.

2. Provided always, that every person so claiming as aforesaid, who shall be registered as a voter in respect of the premises to which his claim relates, shall, in respect of every rate for the relief of the poor made and published after such claim as aforesaid, while he continues to occupy the same premises and to be a registered voter in respect thereof, be liable to the same extent and in the same manner as in respect of the rate published next before the making of such claim.

Liability of the claimants to rates shall continue so long as they occupy the premises and remain on the register.

3. Provided always, that in cases where by any composition with the landlord a less sum shall be payable than the full amount of rate which, except for such composition, would be due in respect of the same premises, the occupier claiming to be rated shall not be bound to pay or tender more than the amount then payable under such composition.

In case of composition with landlord, the liability shall be limited to the amount of the composition.

CHAPTER XIX.

AN ACT for the better Prevention of Offences.^[1]

[3d July 1851.]

[*Preamble.*]

[*Ss. 1-4 rep. 24 & 25 Vict. c. 95. s. 1.*]

5. If upon the trial of any indictment for any felony, except murder or manslaughter, where the indictment shall allege that the defendant did cut, stab, or wound any person, the jury shall be satisfied that the defendant is guilty of the cutting, stabbing, or wounding charged in such indictment, but are not satisfied that the defendant is guilty of the felony charged in such indictment, then and in every such case the jury may acquit the defendant of such felony, and find him guilty of unlawfully cutting, stabbing, or wounding; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for the misdemeanor of cutting, stabbing, or wounding.

On indictment for feloniously cutting, &c., the jury may ∇ convict of unlawfully cutting, &c.

[*Ss. 6-9 rep. 24 & 25 Vict. c. 95. s. 1. S. 10 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[¹ Short title, "The Prevention of Offences Act, 1851." See 55 & 56 Vict. c. 10.]

Apprehension of persons committing indictable offences in the night. **11.** [*Recital.*] It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence in the night, and to convey him or deliver him to some constable or other peace officer, in order to his being conveyed, as soon as conveniently may be, before a justice of the peace, to be dealt with according to law.

Assaults on persons entitled to apprehend. **12.** If any person liable to be apprehended under the provisions of this Act shall assault or offer any violence to any person by law authorized to apprehend or detain him, or to any person acting in his aid and assistance, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years.

Definition of night. **13.** The time at which the night shall commence and conclude in any offence against the provisions of this Act shall be the same as in cases of burglary.

Costs of prosecutions. **14.** In all prosecutions for any offence against the provisions of this Act, it shall be lawful for the court before which any such offence shall be prosecuted or tried to allow the expences of the prosecution in all respects as in cases of felony.

[*S. 15 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Extent of Act. **16.** Nothing in this Act shall extend to Scotland.

CHAPTER XX.

AN ACT to extend the Remedies provided by the Renewable Leasehold Conversion Act, for the Recovery of Fee-farm Rents under that Act, to all other Fee-farm Rents, and to other Rents in Ireland reserved upon Grants of Land in which the Grantors have no Reversion. [3d July 1851.]

[*Preamble recites 12 & 13 Vict. c. 105. ss. 20, 21.*]

Recited sections to extend to all fee-farm rents and to other rents under grants in fee or for life or for years, save as herein excepted. **1.** All the powers, remedies, provisions, and enactments referred to and contained in the said herein-before mentioned sections of the said recited Act shall henceforth extend and be applicable to all fee-farm rents, and also to other rents reserved and payable under any grants, conveyances, or written instruments granting or containing agreements for granting any lands, tenements, or hereditaments in fee simple, or for a life or lives, or for years, or for a life or lives and a term of years, or for a life or lives concurrent with a term of years, and reserving or purporting to reserve thereout rent payable to the grantor or party agreeing to make such grant, or to his or their respective representatives, where the person to whom such rent is or shall be payable has or shall have no reversion in such land; save and except that nothing in this Act contained shall give or confer or be deemed to give or confer any remedy by ejectment for nonpayment of rent, in the case of any fee-farm rent or rent

reserved upon any grant or agreement for a grant in fee (other than a fee-farm rent under the said recited Act); and save and except that nothing herein contained shall extend or refer to or include the provisions contained in the said twenty-first section of the said recited Act relating to the lien or charge in the said section mentioned: . . .

CHAPTER XXI.

AN ACT to amend an Act of the Sixth and Seventh Years of Her Majesty, to amend an Act of the Nineteenth and Twentieth Years of King George the Third for empowering Grand Juries in Ireland to present Bridges, and Tolls to be paid for passing the same, in certain Cases.

[3d July 1851.]

[*Preamble recites 6 & 7 Vict. c. 42. empowering grand juries in Ireland to buy tolls on bridges in counties or cities or towns or within five miles thereof.*]

1. It shall and may be lawful for all or any of the parties herein-after enumerated, having estates or interests in such tolls upon any bridge as aforesaid, to agree with the grand jury or grand juries of the county, county of a city, or county of a town in which or within five miles of which such bridge is situated, or, if such bridge is situated in two counties, with the grand juries of the said counties, for the sale of the entire and absolute estate and interest in such tolls, that is to say, all tenants in tail or for life, or other partial or qualified estates or interests, married women seised in their own right, guardians, committees of lunatics and idiots, trustees, or any feoffees in trust for charitable or other purposes, executors, or administrators for the time being entitled to the receipt of such tolls; and the power so to agree for such sale may lawfully be exercised by all such parties, not only on behalf of themselves, and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics, and idiots respectively could have exercised the same power if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same power if they had respectively been under no disability.

SLR.
1954.
Parties having limited interests, or being under disability, may sell and convey bridge tolls to grand juries.

On sales by such parties, the purchase monies shall be ascertained by a notary, and shall be deposited in the Bank of Ireland.

2. It shall be lawful for such grand jury or juries, and they are respectively hereby authorized and empowered, to enter into such agreements with such person or persons as if he, she, or they were entitled to an absolute estate or estates in the said tolls, and were legally competent to contract for the sale of the same; subject nevertheless to the proviso contained in said recited Act in relation to the manner and conditions of presentments to be made in pursuance thereof; and the amount of the purchase for such tolls upon agreements made under this Act shall be ascertained by a notary public, to be chosen and appointed for that purpose by the said contracting parties to such agreements; and such amount shall be estimated upon an average of the sum received for tolls upon such bridge for three years immediately preceding such agreement; and the purchase money which shall be payable in respect of the said tolls, or any interest therein, purchased by the grand jury or grand juries of any such county or counties, county of a city or town, as aforesaid, from any tenant for life or in tail, married woman seised in her own right, guardian, committee of lunatic or idiot, trustee, executor, or administrator, or persons having a partial or qualified interest only in such tolls, and not entitled to sell the same except under the provisions of this Act, shall be paid into the Bank of Ireland in the name and with the privity of the Accountant General of the Court of Chancery in Ireland, . . . to be placed to the account there of such Accountant General, ex parte such grand jury or grand juries of any county, counties or county of a city or town, purchasing as aforesaid, pursuant to the provisions prescribed by any Act for the time being in force for regulating monies paid in as aforesaid; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

Application of monies deposited.

In the discharge of any debt or incumbrance affecting the tolls in respect of which such money shall have been paid;

In the purchase of lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the tolls in respect of which such money shall have been paid stood settled;

Or in payment to any party becoming absolutely entitled to such money:

Provided always, that in every case where any person having an estate or interest in such tolls shall only be entitled for an estate for life in the same, it shall and may be lawful for such court (if it shall so think fit) to allocate the said purchase money to and amongst the several persons entitled thereto, whether in possession, remainder, or reversion, and to order payment to such tenant for life of the principal of such share of the purchase money as may be so allocated to him or her as aforesaid, or to make such other order in the premises as to such court shall seem meet and just and reasonable.

3. Such money may be so applied as aforesaid upon an order of the Court of Chancery in Ireland made upon the petition of any party who would have been entitled to the tolls in respect of which such monies shall have been deposited, or any part thereof; and until the money can be so applied, it may, upon the like order, be invested by the said Accountant General in the purchase of government stock, and the annual proceeds thereof paid to the party who would for the time being have been entitled to the receipt of the said tolls.

Order for application and investment of such monies.

4. From and after the payment of the said purchase money into the Bank of Ireland as aforesaid the said tolls in respect of which such purchase shall have been made shall cease, and the passage of such bridge in respect of which such toll shall have been payable shall be open and free to all cattle, carriages, and persons whatsoever.

The tolls to cease from the time of such deposit in the Bank.

[S. 5 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

6. This Act shall extend only to that part of the United Kingdom called Ireland.

CHAPTER XXIV.

AN ACT to amend the Acts for the granting of Sites for Schools.^[1] [24th July 1851.]

[*Preamble recites* 4 & 5 *Vict. c.* 38 s. 9. ; 12 & 13 *Vict. c.* 49. s. 3.]

1. The word parish in the sections of the Statutes herein referred to shall, in the case of any parish which has heretofore been or shall hereafter be divided by lawful authority into two or more ecclesiastical districts, whether confined to such parish, or comprising also any part of another parish, be construed with reference to such parish to signify each such ecclesiastical district.

Definition of parish in recited sections.

2. This Act shall be construed as and be deemed to be a part of the said recited Acts, except so far as it amends the same.

Construction.

CHAPTER XXV.

AN ACT to improve the Law of Landlord and Tenant in relation to Emblements, to growing Crops seized in Execution, and to Agricultural Tenants Fixtures.^[2] [24th July 1851.]

[*Preamble.*]

1.^[3] Where the lease or tenancy of any farm or lands held by a tenant at rackrent shall determine by the death or cesser

On determination of leases or tenancies

[¹ Short title, "The School Sites Act, 1851." See 55 & 56 *Vict. c.* 10.]

[² Short title, "The Landlord and Tenant Act, 1851." See 55 & 56 *Vict. c.* 10.]

[³ S. 1 is *rep.*, so far as regards Ireland, 23 & 24 *Vict. c.* 154. s. 104.]

under tenant
for life, &c.,
instead of
emblements
tenant to hold
until expira-
tion of current
year, &c.

of the estate of any landlord entitled for his life, or for any other uncertain interest, instead of claims to emblements, the tenant shall continue to hold and occupy such farm or lands until the expiration of the then current year of his tenancy, and shall then quit, upon the terms of his lease or holding, in the same manner as if such lease or tenancy were then determined by effluxion of time or other lawful means during the continuance of his landlord's estate; and the succeeding landlord or owner shall be entitled to recover and receive of the tenant, in the same manner as his predecessor or such tenant's lessor could have done if he had been living or had continued the landlord or lessor, a fair proportion of the rent for the period which may have elapsed from the day of the death or cesser of the estate of such predecessor or lessor to the time of the tenant so quitting; and the succeeding landlord or owner and the tenant respectively shall, as between themselves and as against each other, be entitled to all the benefits and advantages, and be subject to the terms, conditions, and restrictions, to which the preceding landlord or lessor and such tenant respectively would have been entitled and subject, in case the lease or tenancy had determined in manner aforesaid at the expiration of such current year: Provided always, that no notice to quit shall be necessary or required by or from either party to determine any such holding and occupation as aforesaid. !

Growing crops
seized and sold
under execu-
tion to be liable
for accruing
rent.

2. In case all or any part of the growing crops of the tenant of any farm or lands shall be seized and sold by any sheriff or other officer by virtue of any writ of fieri facias or other writ of execution, such crops, so long as the same shall remain on the farms or lands, shall, in default of sufficient distress of the goods and chattels of the tenant, be liable to the rent which may accrue and become due to the landlord after any such seizure and sale, and to the remedies by distress for recovery of such rent, and that notwithstanding any bargain and sale or assignment which may have been made or executed of such growing crops by any such sheriff or other officer.

Tenant may
remove build-
ings and fix-
tures erected
by him on
farms, unless
landlord elects
to purchase
them.

3. If any tenant of a farm or lands shall, after the passing of this Act, with the consent in writing of the landlord for the time being, at his own cost and expence, erect any farm-building, either detached or otherwise, or put up any other building, engine, or machinery, either for agricultural purposes or for the purposes of trade and agriculture, (which shall not have been erected or put up in pursuance of some obligation in that behalf,) then all such buildings, engines, and machinery shall be the property of the tenant, and shall be removable by him, notwithstanding the same may consist of separate buildings, or that the same or any part thereof may be built in or permanently fixed to the soil, so as the tenant making any such removal do not in anywise injure the land or buildings belonging to the landlord, or otherwise do put the same in like plight and

condition, or as good plight and condition, as the same were in before the erection of anything so removed: Provided nevertheless, that no tenant shall, under the provision last aforesaid, be entitled to remove any such matter or thing as aforesaid without first giving to the landlord or his agent one month's previous notice in writing of his intention so to do; and thereupon it shall be lawful for the landlord, or his agent on his authority, to elect to purchase the matters and things so proposed to be removed, or any of them, and the right to remove the same shall thereby cease, and the same shall belong to the landlord; and the value thereof shall be ascertained and determined by two referees, one to be chosen by each party, or by an umpire to be named by such referees, and shall be paid or allowed in account by the landlord who shall have so elected to purchase the same.

4. If any occupying tenant of land shall quit, leaving unpaid any tithe rentcharge for or charged upon such land, which he was by the terms of his tenancy or holding legally or equitably liable to pay, and the tithe owner shall give or have given notice of proceeding by distress upon the land for recovery thereof, it shall be lawful for the landlord, or the succeeding tenant or occupier, to pay such tithe rentcharge, and any expences incident thereto, and to recover the amount or sum of money which he may so pay over against such first-named tenant or occupier, or his legal representatives, in the same manner as if the same were a debt by simple contract due from such first-named tenant or occupier to the landlord or tenant making such payment.

If a tenant quits leaving any tithe rentcharge unpaid, the landlord, &c. may pay the same, and recover from the outgoing tenant as if it were a simple contract debt.

5. Nothing in this Act shall extend to Scotland.

Extent of Act.

CHAPTER XXVI.

AN ACT to amend the Acts relating to the British White Herring Fishery.[¹] [24th July 1851.]

[*Preamble recites* 48 Geo. 3. c. 110; 55 Geo. 3. c. 94; 1 & 2 Geo. 4. c. 79; 5 Geo. 4. c. 64; 11 Geo. 4. & 1 Will. 4. c. 54; 6 & 7 Vict. c. 79; 10 & 11 Vict. c. 91.]

[*S. 1 rep.* 38 & 39 Vict. c. 66. (*S.L.R.*)]

2. It shall be lawful for the Commissioners of the Herring Fishery, in virtue of the powers conferred upon them by the said recited Acts or any of them and by this Act, from time to time to regulate and fix the period which shall intervene between the day on which white herrings, whether bung-packed or repacked, shall be salted, and the day on which the barrels containing such herrings, whether bung-packed or repacked,

Commissioners to regulate the time (being not more than fifteen days) between salting and branding.

[¹ Rep. 30 & 31 Vict. c. 52. s. 9., in so far as necessary to give effect to the provisions of that Act.]

shall be entitled to be branded, such period being not more than fifteen clear days after the salting of the same; and the said commissioners shall, before any regulations made by them for the purposes aforesaid are to come into operation, cause notice thereof to be given by publication of the same once in the *Edinburgh Gazette*, and also by affixing printed copies thereof on some conspicuous place or places at the various herring fishing stations in Scotland; and nothing in the said recited Acts or any of them shall prevent the exportation, subject to the other provisions of the said recited Acts, to ports or places in Europe or out of Europe, of herrings branded within the periods to be authorized by the regulations to be so made and published by the said commissioners.

Penalty under
48 Geo. 3.
c. 110. s. 50.
extended to
fraudulently
branding
empty barrels.

3. The penalties and forfeiture by the fiftieth section of the *Herring Fishery (Scotland) Act, 1808*, imposed upon any person fraudulently burning or branding, or causing to be burnt or branded, any barrel or cask of herrings, shall attach and apply to and be enforced against any person who shall fraudulently, or without the authority of an officer of the fishery, burn or brand, or cause to be burnt or branded, or illegally have in his custody or possession any instrument for the purpose of burning or branding, any empty barrel or cask, with any such mark or marks, character or characters as are referred to in the said section, in such and the like manner as if such section as hereby extended were re-enacted herein.

Repacking
and shipping
coastwise of
herrings for
exportation.

4. . . . it shall hereafter be lawful to repack herrings with great salt or other salt, and, subject to the other provisions of the said recited Acts, to export to any place out of Europe such herrings so repacked; and it shall in like manner be lawful to ship coastwise for exportation unbranded herrings, without the production of any notice or certificate required by the said recited Acts.

[*Ss. 5, 6 rep. 31 & 32 Vict. c. 45. s. 71. S. 7 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Mode of en-
forcing and
suing for for-
feitures and
penalties.

8. It shall be competent to enforce or sue for any forfeiture or penalty imposed by the said recited Acts or any of them or by this Act in the manner provided by the said recited Acts or this Act, in the name of the secretary of the board for the time being, or the procurator fiscal of the county or of the burgh or town where the offence is to be tried, or by the superintendent of the herring fishery, or by any officer of the said fishery.

Imprisonment
in default of
payment of
penalty.

9. It shall be lawful for any judge trying any offence under the said recited Acts or any of them or this Act, who in pronouncing sentence shall decern against any offender for payment of any penalty and expences, to grant warrant also (failing payment of such penalty and expences, or failing security being found to the satisfaction of the court for such payment, within forty-eight hours after the same shall have been decerned for), to imprison such offender . . .

CHAPTER XXVIII.

AN ACT for the well-ordering of Common Lodging Houses.^[1]
[24th July 1851.]

[Preamble.]

1. In citing this Act for any purpose it shall be sufficient to use the expression "The Common Lodging Houses Act, 1851." Short title.

2. The following words and expressions in this Act have, for the purposes and execution of this Act, the following meanings; to wit, Interpretation of terms.

The word "place" includes county, riding, hundred, and other division or part of a county, city, borough, parish, district, and other place whatsoever:

* * * * *

The expression "common lodging house" includes, in any case in which only a part of a house is used as a common lodging house, the part so used of such house.

3. This Act shall be executed . . . by "The Commissioners of Police of the Metropolis," [²or such one of them as is from time to time appointed in that behalf by one of her Majesty's Principal Secretaries of State:] By whom the Act is to be executed.

4. The expences of and incident to the executing of this Act shall be borne and paid . . . as part of the general expences of executing the Acts for the time being in force relating to the metropolitan police force: . . . And the monies from time to time required for the payment of the expences of and incident to the execution of this Act shall be assessed, levied, raised, recovered, and paid accordingly. Expences of executing the Act.

5. The expression in this Act "the local authority" means, with respect to the purposes and execution of this Act with respect to any place, the body or person by this Act authorized to execute with respect to the place the several provisions of this Act. Meaning of the term "the local authority."

[S. 6 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

7. The local authority shall keep a register in which shall be entered the names and residences of the keepers of all common lodging houses within the jurisdiction of the local authority, and the situation of every such house, and the number of lodgers authorized according to this Act to be received therein. Registers of common lodging houses to be kept.

[S. 8 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

9. The local authority may from time to time make regulations respecting common lodging houses within its jurisdiction for all or any of the purposes respecting the same for which the Power to local authority to make regulations respecting common lodging houses.

[¹ Rep. as to E., except so far as relates to the Metropolitan Police District, 38 & 39 Vict. c. 55, s. 343. and see s. 313. Rep. as to I., 41 & 42 Vict. c. 52, s. 294.]

[² Rep. 56 & 57 Vict. c. 14. (S.L.R.); but see 19 & 20 Vict. c. 2, s. 7.]

11 & 12 Vict.
c. 63.

Local Board of Health are by the [1]Public Health Act, 1848, authorized to make byelaws, and for the well-ordering of such houses, and for the separation of the sexes therein: Provided always, that the regulations made under this Act by the local authority shall not be in force until they have been confirmed by one of her Majesty's Principal Secretaries of State.

Power to local
authority to
impose penal-
ties for offences
committed
against regula-
tions.

10. The local authority shall have the same power of imposing penalties on offenders against the said regulations, subject to the same restrictions, as the local board with respect to offenders against such byelaws; and such penalties shall be recoverable in the same way as is provided in the said Act with respect to the penalties imposed on offenders against such byelaws; and a copy of the said regulations, purporting to be signed by the Secretary of State, and also to be signed by the local authority, (or to be sealed with the seal of the same, in case it have a seal,) shall be receivable in evidence of such regulations, and of the duly making and confirming thereof.

Evidence of
regulations.

Keepers of
common lodg-
ing houses to
give notice of
fever, &c.
therein.

11. The keeper of a common lodging house shall, when a person in such house is ill of fever or any infectious or contagious disease, give immediate notice thereof to the local authority, or some officer of the local authority, and also to the poor law medical officer and the poor law relieving officer of the union or parish in which the common lodging house stands.

Access of offi-
cers to com-
mon lodging
houses.

12. The keeper of a common lodging house, and every other person having or acting in the care or management thereof, shall, at all times when required by any officer of the local authority, give him free access to such house or any part thereof.

Cleansing
of common
lodging houses.

13. The keeper of a common lodging house shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools, and drains thereof, to the satisfaction of and so often as shall be required by or in accordance with any regulation or byelaw of the local authority, and shall well and sufficiently, and to the like satisfaction, linewash the walls and ceilings thereof in the first week of each of the months of April and October in every year.

Penalty for
offences against
this Act.

14. If the keeper of a common lodging house, or any other person having or acting in the care or management thereof, offend against any of the provisions of this Act, or any of the byelaws or regulations made in pursuance of this Act, or if any person in any common lodging house be confined to his bed for forty-eight hours by fever or any infectious or contagious disease, without the keeper of such house giving notice thereof as required by this Act, every person so offending shall for every such offence be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings

[1 This Act is rep. 37 & 38 Vict. c. 55. s. 343; see now s. 80 of that Act.]

for every day during which the offence continues^[1]: Provided always, that this Act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this Act.

15. The clauses and provisions of the Railways Clauses Consolidation Act, 1845, "with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices," are for the purposes and execution of this Act incorporated with this Act.

Incorporation of clauses of 8 & 9 Vict. c. 20. as to damages, &c.

16. The local authority, and all justices, constables, and others, shall respectively have full jurisdiction, powers, authorities, and indemnities for executing the several provisions of this Act; . . .

General powers of local authority, &c.

[S. 17 rep. 55 & 56 Vict. c. 19. (S.L.R.)]

18. Nothing in this Act shall extend to Scotland.

Extent of Act.

[Sched. rep. 37 & 38 Vict. c. 66. (S.L.R.)]

CHAPTER XXXV.

AN ACT to extend the Benefits of certain Provisions of the General Merchant Seamen's Act relating to Apprentices bound to the Sea Service to Apprentices bound to the Sea Service by Boards of Guardians of the Poor in Ireland, and to enable such Guardians to place out Boys in the Naval Service. [24th July 1851.]

S.L.R.
192

[Preamble recites 7 & 8 Vict. c. 112.]

[Whole Act except s. 10 rep. 17 & 18 Vict. c. 120. s. 4.]

10. If any boy, not already an apprentice in the Merchant Service, who, or whose parent or parents, shall be receiving relief in any union in Ireland, be desirous of serving in the Naval Service of Her Majesty, and be accepted or approved and received by competent authority in such service, the guardians of the poor of such union, or the persons duly appointed and having authority as such therein, may and they are hereby empowered, with the consent of the Commissioners for Administering the Laws for Relief of the Poor in Ireland, to allow any such boy, with his consent, to enter into such Naval Service, and to pay, out of the rates of the union or electoral division, as the case may be, to which such boy may at the time be chargeable, such sum as may be required by the regulations of such service for providing outfit or otherwise, and also such expences as may be necessary to be incurred for the conveyance of such boy in charge of a proper person to the port or place in the United Kingdom at which he may be required to attend for entry into such service.

Boys, who or whose parents are in receipt of relief, may be allowed by the guardians to enter the Naval Service, &c.

[¹ As to imprisonment in default of payment of penalty, see 16 & 17 Vict. c. 41. s. 11.]

CHAPTER XXXVI.

AN ACT . . . to grant . . . Duties on Inhabited Houses according to their annual Value.^[1]

[24th July 1851.]

[*Preamble recites 48 Geo. 3. c. 55.*]

Duties on inhabited houses.

1. . . . there shall be assessed, raised, levied, collected, and paid unto and for the use of her Majesty, upon inhabited dwelling houses in and throughout Great Britain, the several duties set forth in the schedule to this Act annexed, payable according to the annual value of such dwelling houses, which said schedule shall be deemed and taken to be part of this Act.

Duties granted to be assessed taxes and under Commissioners of Inland Revenue.

2. The said duties shall be denominated and deemed to be duties of assessed taxes, and shall be under the care and management of the Commissioners of Inland Revenue for the time being; and all powers, provisions, rules, regulations, and directions, fines, forfeitures, pains, and penalties now in force, contained in or enacted by any Act or Acts relating to the duties of assessed taxes, and also all powers, provisions, rules, regulations, directions, and exemptions, fines, forfeitures, pains and penalties, contained in or enacted by any such Act or Acts as aforesaid, with reference to the duties on inhabited dwelling houses, according to the value thereof as set forth in the schedule marked (B.) annexed to the said act of the forty eighth year of King George the Third, and which were in force in regard to the said last-mentioned duties at the time of the repeal of such duties by an Act of the session holden in the fourth and fifth years of King William the Fourth, chapter nineteen . . . shall severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall be severally and respectively duly observed, applied, practised, and put in execution in the respective parts of Great Britain, for assessing, raising, levying, collecting, receiving, accounting for, and securing the said duties hereby granted, and otherwise in relation thereto, so far as the same are or shall be applicable, and are not repealed or superseded by and are consistent with the express provisions of this Act, as fully and effectually, to all intents and purposes, as if the same powers, provisions, rules, regulations, directions, and exemptions, fines, forfeitures, pains, and penalties, were particularly repeated and re-enacted in this Act with reference to the said duties hereby granted : . . .

48 Geo. 3. c. 55.

4 & 5 Will. 4. c. 19.

Market gardens and nursery grounds.

3. Provided always, that no market garden or nursery ground occupied by a market gardener or nurseryman *bonâ fide* for the sale of the produce thereof, in the way of his trade or business, shall be included in the valuation of any dwelling house and premises in charging the duties made payable by this Act.

[*Ss. 4-6 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

[¹ Short title "The House Tax Act, 1851." See 55 & 56 Vict. c. 10.

So much of this Act as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive, rep. 32 & 33 Vict. c. 67. s. 77., so far as relates to the Metropolis as defined by that Act.]

The SCHEDULE referred to;

Sect. 1.

CONTAINING

THE Duties by this Act made payable upon Inhabited Dwelling Houses in and throughout Great Britain, according to the annual Value thereof; that is to say,

For every inhabited dwelling house which, with the household and other offices, yards, and gardens therewith occupied and charged, is or shall be worth the rent of twenty pounds or upwards, by the year,—

Where any such dwelling house shall be occupied by any person in trade who shall expose to sale and sell any goods, wares, or merchandise in any shop or warehouse, being part of the same dwelling house, and in the front and on the ground or basement story thereof;

And also where any such dwelling house shall be occupied by any person who shall be duly licensed by the laws in force to sell therein by retail beer, ale, wine, or other liquors, although the room or rooms thereof in which any such liquors shall be exposed to sale, sold, drunk, or consumed shall not be such shop or warehouse as aforesaid;

And also where any such dwelling house shall be a farmhouse occupied by a tenant or farm servant, and bona fide used for the purposes of husbandry only;

There shall be charged for every twenty shillings of such annual value of any such dwelling house, the sum of sixpence :

And where any such dwelling house shall not be occupied and used for any such purpose and in manner aforesaid there shall be charged for every twenty shillings of such annual value thereof the sum of ninepence.

CHAPTER XLJ.

AN ACT to regulate the Salaries of the Chief Justice of the Court of Queen's Bench and the Chief Justice of the Court of Common Pleas. [1st August 1851.]

[*Preamble recites 2 & 3 Will. 4. c. 116.*]

[1.] The salary payable to the Chief Justice of the Court of Queen's Bench at Westminster shall be . . . the yearly sum of eight thousand pounds . . . such salaries respectively to be subject to the provisions of the said Act of the second and third years of King William the Fourth concerning the salaries granted under the authority of that Act. Salary of Chief Justice.

CHAPTER XLII.

AN ACT to make better Provision for the Management of the Woods, Forests, and Land Revenues of the Crown, and for the Direction of Public Works and Buildings.^[1.]

[1st August 1851.]

[*Preamble recites* 10 *Geo.* 4. c. 50 ; 2 & 3 *Will.* 4. c. 1 ;
2 & 3 *Will.* 4. c. 112 ; 3 & 4 *Will.* 4. c. 69.]

Appointment,
&c. of First
Commissioner
of Works and
Commissioners
of Woods.

1. From and after the commencement of this Act the person who may then be the First Commissioner of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings shall be First Commissioner of her Majesty's Works and Public Buildings under this Act; and the persons who at the time of the commencement of this Act may be Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, except such First Commissioner shall be commissioners under this Act, by the style of "The Commissioners of Her Majesty's Woods, Forests, and Land Revenues"; and the persons so to become respectively on the passing of this Act First Commissioner of her Majesty's Works and Public Buildings, and Commissioners of her Majesty's Woods, Forests, and Land Revenues, shall continue to hold their respective offices during her Majesty's pleasure, and no longer; and it shall be lawful for her Majesty, upon the death of such persons respectively, or on their resignation or removal of or from such respective offices, and from time to time thereafter, by warrant under her Royal Sign Manual, to appoint some other persons to such respective offices during her Majesty's pleasure.

Except as
otherwise pro-
vided, Commis-
sioners of
Woods to per-
form the
duties, &c. of
the present
commissioners.

2. Except as otherwise herein provided, all duties and powers which, if this Act had not been passed, would have been performed and exercised, and all rights, privileges, hereditaments, properties, and exemptions whatsoever enjoyed by or vested in the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or the First Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings for the time being, shall be performed and exercised, enjoyed or vested, by and in the Commissioners of Woods, under this Act; and, except as otherwise provided by this Act, all Acts of Parliament, deeds, bonds, contracts, agreements, and other instruments, in which the Commissioners or First Commissioner of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or the Commissioners or First Commissioner of Woods, are or is named or mentioned, shall apply to the Commissioners of Woods under this Act, as if such last-mentioned commissioners had been originally named or mentioned in such Acts of Parliament, and named or mentioned in or made parties to such deeds, bonds, contracts, agreements, and other instruments respectively, instead of the commissioners or commissioner named or mentioned therein, or made parties or party thereto.

[¹ Short title, "The Crown Lands Act, 1851." See 55 & 56 Vict. c. 10.]

3. All such powers of borrowing money on mortgage and other powers as are vested in the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings by the Act of the session of Parliament holden in the fourth and fifth years of her Majesty, chapter forty, and the Act of the session of Parliament holden in the seventh and eighth years of her Majesty, chapter one, shall be vested in and may be exercised by the Commissioners of Woods, under this Act, with such consent and approbation and in such manner as by the said Acts provided in relation to the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings; and for the purposes of such Acts the Commissioners of Woods shall be a corporation, in the place of the said Commissioners of her Majesty's Woods, Forests, Land Revenues, Works and Buildings: Provided always, that so much of the said Acts as relates to the purposes for which money is to be borrowed under the said Acts, and the application thereof, shall be repealed, and such money shall and may be borrowed under the said Acts as amended by this Act for the purpose of discharging any mortgage debt or charge for the time being affecting the land revenues of the Crown, and for no other purpose; and such money shall be applied accordingly: Provided also, that the receipts in writing of the Commissioners of Woods, shall be sufficient discharges for any money so borrowed to the persons or bodies advancing the same; and such persons or bodies shall not be bound to see to the application thereof.

Powers of borrowing by Commissioners of Woods.
4 & 5 Vict. c. 40.
7 & 8 Vict. c. 1.

4. . . . the salaries of such commissioners, and of the officers, clerks, and messengers in the office of the Commissioners of Woods, shall be defrayed out of such monies as shall be from time to time provided by Parliament.

Salaries of Commissioners of Woods.

5. It shall be lawful for the Treasury, from time to time, as they may see fit, by order under their hands, to assign to each of the Commissioners of Woods, the management or direction of or in relation to any separate part or parts of the woods, forests, and land revenues under the management of such commissioners, and to assign to each of such commissioners any of the duties or powers which but for such assignment should or might be performed or exercised by such commissioners jointly; and all Acts in relation to the management or direction, duties or powers, assigned as aforesaid to each of such commissioners, may be done by the commissioner to whom the same is or are assigned, and shall be as valid and effectual as if done by both such commissioners; and neither of such commissioners shall be responsible in respect of the acts done by the other of them alone under this provision, but each shall be responsible for his own acts; and no person, or body politic, corporate, or collegiate, claiming under any deed or instrument made or purporting to be made by one of the Commissioners of Woods under the authority of this Act, and duly enrolled shall be bound to inquire whether such commissioner was authorized by any such order as aforesaid or otherwise to make the same, but every deed

Treasury may assign separate duties to each commissioner, &c.

or instrument which purports to be made by one of such commissioners under the authority of this Act shall, after the same has been duly enrolled, be good valid, and effectual as against her Majesty, for the purposes for which the same has been executed.

Deeds, &c. to
be enrolled.

6. . . . all deeds or instruments whereby any estates, manors, lordships, messuages, lands, tenements, or hereditaments, in England or Wales, shall be hereafter purchased, sold, leased, charged, or exchanged, under the authority of this Act, or of any Act now in force relating to the possessions and land revenues of the Crown, shall, without reference to the amount of the purchase money or other consideration for the same, be enrolled in the Office of Land Revenue Records or Enrolments within the same time and subject to the same regulations and provisions in all respects as by the said Acts or any of them is required or provided with respect to such deeds or instruments in cases where the purchase money or other consideration for the same amounts to or exceeds the sum of one hundred pounds: Provided nevertheless, that in all or any cases in which the purchase money or other consideration shall not amount in value to the sum of one hundred pounds, it shall be lawful for the Treasury to direct by whom the fees payable for the enrolment of any such deeds or instruments as aforesaid shall be paid; and in all cases in which the purchase or other consideration shall not amount in value to the sum of one hundred pounds, the deposit in the said office, and the filing by the Keeper of the Records and Enrolments, of a duplicate of the deed or instrument, (either wholly written, or partly written and partly printed,) shall be deemed a sufficient and complete enrolment.

Appointment
and removal
of officers.

7. Subject to the powers herein given to the Treasury in relation to such officers, the officers who at the commencement of this Act are in the department or under the control and direction of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, shall be in the department or under the control and direction of and shall be removable by the Commissioners of Woods; and all officers hereafter to be appointed for such department shall be appointed by the Treasury, and may be removed by the Commissioners of Woods.

Treasury may
abolish any
offices in the
department of
Woods, &c.

8. Provided always, that it shall be lawful for the Treasury at any time to abolish or reduce any office or offices in the department or under the control and direction of the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or of the Commissioners of Woods under this Act, or any office or offices connected with the management of the possessions and land revenues of the Crown, or the collection and receipt of the income thereof, which to the Treasury may appear useless, and to make such compensation as they may deem reasonable to the holders of any offices to be abolished or reduced, or to make any arrangement in relation to any office, or the performance of the duties thereof, which may appear to them expedient, reference being always had in respect

to the grant of such compensation to the provisions and enactments of the Superannuation Act, 1834, in so far as relates to the rates of grants and periods of service.

[S. 9 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

10. . . . neither of the Commissioners of Woods under this Act shall be capable of being elected or of sitting or voting as a member of the House of Commons.

4 & 5 Will. 4.
c. 24.

Commissioners
not to sit in
House of
Commons.

11. It shall be lawful for her Majesty at any time hereafter, by and with the advice of her Privy Council, in case her Majesty so think fit, to order that her Majesty's Woods, Forests, and Land Revenues shall be under the management of a Surveyor General, as herein provided.

Woods, &c.
may be placed
under a Sur-
veyor General.

12. It shall be lawful for her Majesty, from time to time, after the making of such order, by warrant under her Royal Sign Manual, to appoint a person to be during her Majesty's pleasure "The Surveyor General of Her Majesty's Woods, Forests, and Land Revenues"; and there shall be paid to such Surveyor General for the time being such salary not exceeding one thousand five hundred pounds per annum, as shall be from time to time appointed by the Treasury.

Provision for
appointment
and salary of
Surveyor
General.

13. From and after the first appointment of the Surveyor General of her Majesty's Woods, Forests, and Land Revenues as aforesaid, the appointment of Commissioners of Woods shall cease; and all duties, powers, rights, privileges, hereditaments, properties, and exemptions whatsoever, which, if such appointment of a Surveyor General had not been made, would or might have been performed, exercised, or enjoyed by or vested in the Commissioners of Woods, shall be performed, exercised, and enjoyed by and vested in the said Surveyor General for the time being; and all Acts of Parliament, deeds, bonds, contracts, agreements and other instruments, in which the Commissioners of Woods are named or mentioned, or which under the provisions of this Act are applicable to such commissioners, shall apply to such Surveyor General for the time being, in like manner as they would have been applicable to the Commissioners of Woods under this Act, and in the stead of such commissioners.

Surveyor
General, to
have all the
duties and
powers of the
Commissioners
of Woods, &c.

14. It shall be lawful for the Commissioners of her Majesty's Treasury, after the appointment of such Surveyor General as aforesaid, to appoint a person, being by education and profession a land surveyor, to be an itinerant surveyor of the possessions and land revenues of the Crown, and to assign to such itinerant surveyor such duties and powers, to be exercised under the control and direction of the Surveyor General, in relation to the management of the said possessions and land revenues, as such commissioners may think fit; and such salary shall be paid to such itinerant surveyor as may be from time to time appointed by the said commissioners; and he shall be removable from such office by the said commissioners if they see fit.

Itinerant sur-
veyor of Crown
Lands.

Commissioners
of Works.

15. Her Majesty's Principal Secretaries of State for the time being, and the President and Vice President for the time being of the Committee of Council appointed for the consideration of matters relating to Trade and Foreign Plantations, shall by virtue of their respective offices be Commissioners of Works in conjunction with the person who for the time being shall be First Commissioner of Works and Public Buildings under this Act, and shall with such person be styled "The Commissioners of Her Majesty's Works and Public Buildings."

Appointment
of architects,
surveyors, &c.

16. It shall be lawful for the Commissioners of Works and Public Buildings, from time to time, with the approval of the Treasury, to appoint or employ such architects, surveyors, and other officers of a similar character, as the said Commissioners of Works may deem necessary; and it shall be lawful for the Treasury to appoint a secretary, and such clerks, messengers, and officers (except such officers as aforesaid) as they may deem necessary for the business of the said department; and the officers for the time being of the said department, or any of them, may be removed by the Commissioners of Works.

Salaries of
First Commis-
sioner of
Works, &c.
and officers.

17. There shall be paid to the First Commissioner of her Majesty's Works and Public Buildings such salary, not exceeding two thousand pounds per annum, and to the said secretary, clerks, messengers, and officers such salaries as shall be from time to time appointed by the Treasury; but no Commissioner of Works, other than such First Commissioner, shall have any salary for acting in the execution of this Act.

[*Ss. 18, 19 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

First Commis-
sioner of
Works may
sit in House
of Commons.

20. The First Commissioner of Works for the time being shall be capable of being elected and of sitting and voting as a member of the House of Commons; . . .

Commissioners
of Works to
perform the
duties of
Surveyor
General of
Works.
2 & 3 Will. 4.
c. 81.

21. All the duties and powers which would have been performed and exercised by the Surveyor General of her Majesty's Works and Public Buildings if the Crown Lands Act, 1832, had not been passed, and the exemptions and privileges which would have been enjoyed by the said Surveyor General if such Act had not been passed, so far as such duties and powers, exemptions and privileges, are not inconsistent with the enactments of this Act, shall be performed, exercised, and enjoyed by such Commissioners of Works; and all Acts of Parliament, deeds, and other instruments, in which the Surveyor General of Works and Public Buildings is mentioned, so far as the said deeds and instruments are now in force, and so far as the enactments of the said Acts are not inconsistent with the enactments of this Act, shall apply to the Commissioners of Works, as if such Commissioners of Works had been originally named or mentioned in such Acts of Parliament, or named or mentioned in or made parties to such deeds and instruments respectively, instead of such Surveyor General.

22. The Commissioners of Works shall perform and exercise the duties and powers of management, and all other duties and powers which, if this Act had not been passed, would have been performed and exercised by the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, of and in relation to the royal parks, gardens, and possessions herein-after mentioned; that is to say,)

Duties in relation to royal parks, &c., and under the Acts in the schedule, vested in Commissioners of Works.

Saint James's, }
Hyde, and } Parks,
Green }
Kensington Gardens,
Chelsea Garden,
The Treasury Garden,
Parliament Square Garden,
Regent's Park,
Primrose Hill,
Victoria Park,
Battersea Park,
Greenwich Park,
Kew Gardens, Pleasure Grounds, and Green,
Kew and Richmond Roads,
Hampton Court Gardens, Green, and Road,
Hampton Court Park,
Richmond Park and Green,
Bushey Park, and
Holyrood Park;

And the Commissioners or First Commissioner of Works shall also perform and exercise all the duties and powers under the several Acts mentioned in the schedule to this Act which would have been performed and exercised by the Commissioners or First Commissioner for the time being of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, if this Act had not been passed, except as herein-after provided; and all such Acts shall, except as herein-after provided, be construed to apply to the Commissioners or First Commissioner of Works, as if such Commissioners or First Commissioner had been originally named or mentioned therein instead of the Commissioners or First Commissioner of Woods, or of Woods, Forests, Land Revenues, Works, and Buildings (as the case may be), and every such Act, whereby the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings have been constituted a corporation for the purposes of such Act, shall after the commencement of this Act be read and construed as if the Commissioners of Works had been thereby incorporated by the name of "The Commissioners of Her Majesty's Works and Public Buildings"; and the perpetual succession, use of common seal, and other rights and privileges and powers whatsoever, thereby given to or vested in the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, shall be

deemed and construed to have been thereby given to and vested in the Commissioners of Works.

Powers as to
parts of the
royal parks.

23. Provided always, that all such houses, gardens, and portions of ground within any of the royal parks herein-before mentioned, as are now leased or agreed to be leased, shall be under the management of the Commissioners of Woods; and all the powers of leasing such parts of Victoria Park and Regent's Park respectively as, if this Act had not been passed, might from time to time be leased by the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and all powers in relation to the parts so to be leased, which would have been vested in or might have been exercised by such last-mentioned Commissioners, shall be vested in and may be exercised by the Commissioners of Woods.

[S. 24 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Salaries and
expences of
the department
of Works.

25. The salaries of the First Commissioner of Works, and the salaries, superannuations, and retired allowances of the officers in the department of the Commissioners of Works, and the incidental expences of such department, and all the expences to be incurred by the Commissioners of Public Works, or any of them, in the performance and exercise of the duties and powers vested in such Commissioners under this Act, save such expences as shall be defrayed out of monies provided by or under the Acts mentioned in the schedule to this Act, or out of monies to be transferred to the credit of or to be payable to or applicable by such commissioners under the provisions herein-after contained, shall be defrayed out of such monies as shall be from time to time provided by Parliament: Provided always, that the profits of the herbage and like profits during the natural life of her Majesty, of the parks, gardens, and possessions placed under the management of such commissioners by this Act, after payment thereof of any tithe, rentcharges or other like charges for the time being issuing out of or charged on such parks, gardens, and possessions, shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Two commis-
sioners or
First Commis-
sioner of
Works may
act.

26. Anything by this Act authorized to be done by the Commissioners of Works, and anything which by any future Act may be authorized to be done by such commissioners, unless express provision to the contrary be made by such future Act, may be done by any two of such commissioners or by the First Commissioner of Works.

Property
vested in Com-
missioners of
Woods, &c.
under Acts in
schedule shall
vest in Com-
missioners of
Works, &c.

27. All the lands, tenements, hereditaments, and property whatsoever, which at the commencement of this Act shall be vested in the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, in a corporate capacity or otherwise, and whether so vested in such commissioners, alone or jointly with others, under or for the purposes of any of the Acts mentioned in the schedule to this Act, shall upon the commencement of this Act be vested in the Commissioners of Works,

in the like corporate capacity or otherwise, as the case may require, alone or jointly as aforesaid, for the estate or interest and purposes, and subject to the rights and equities, for and subject to which the same respectively were vested in the Commissioners of Woods, Forests, Land Revenues, Works, and Buildings.

28. . . . all monies which would have been payable to or applicable by the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, under or for the purposes of any of such last-mentioned Acts, or for the purposes of any of the duties or powers vested in the Commissioners of Works under this Act, shall be payable to and applicable by such last-mentioned commissioners; . . .

Monies payable to Commissioners of Woods to be payable to Commissioners of Works.

[Ss. 29-31 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

32. The Commissioners of Works and Commissioners of Woods respectively shall for the time being observe, perform, fulfil, and keep all and singular the orders, instructions, and directions, not inconsistent with the Acts for the time being in force in relation to their respective offices, which from time to time shall be made or given to them by the Treasury, touching or concerning the execution and discharge of the duties of such offices, and for the effectual division, distribution, and arrangement of the duties and powers which are to be performed and exercised by such Commissioners of Works and of Woods respectively.

Commissioners of Works, and Commissioners of Woods, to observe orders of the Treasury.

33. All instructions, orders, and directions which, in pursuance of and conformably to the directions of any Act or Acts of Parliament, the Treasury have hitherto prepared, and transmitted to the Surveyor General, for the conduct of the business of the Office of Works, or for the regulation or control of the expenditure thereof in any of its branches or departments, or concerning the duties of the Office of the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, shall be binding upon, observed, and kept by the Commissioners of Works and the Commissioners of Woods respectively, in relation to their respective departments, in like manner as the same instructions, orders, and directions respectively are now binding upon and are or ought to be observed and performed by the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, until such instructions, orders, and directions respectively shall be revoked or varied, under the power herein contained.

As to orders heretofore issued.

34. In case it appear to the Treasury that it is expedient that any duties or powers which under the provisions of any local or personal Act are vested in the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and are under the provisions of this Act transferred to the Commissioners of Woods, should be transferred to the Commissioners of Works, it shall be lawful for the Treasury, by order under their hands, to transfer such duties or powers accordingly; and from and after the time in such order mentioned, and subject to

Treasury may transfer duties of Commissioners of Woods under local or personal Acts to Commissioners of Works.

the provisions of such order, such duties or powers shall be vested in the Commissioners of Works: Provided always, that no such order shall be made for the transfer as aforesaid of any duties or powers vested under this Act in the Commissioners of Woods without her Majesty's warrant under her Royal Sign Manual for that purpose obtained.

Application of powers of Treasury under 11 & 12 Vict. c. 102. to the accounts, &c. of the commissioners under this Act.

35. All the powers and authorities which under an Act of the session holden in the eleventh and twelfth years of her Majesty, chapter one hundred and two, mentioned in the schedule to this Act, are vested in the Treasury, for making from time to time rules and regulations and general and special orders with respect to the receipt and payment of monies by or on behalf of the Commissioners of her Majesty's Woods, Forests, Lands Revenues, Works, and Buildings, the persons to be employed in conducting such receipts and payments, and the manner, form, and place in which the accounts of such receipts and payments shall be kept, and with respect to the payment and transfer of monies from and into any general or special, particular or separate account of the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and with respect to the form in which such cheques or orders for the payment of monies placed to any account of the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, shall be drawn, and with respect to the appointment of persons to draw such cheques or orders in the names of such commissioners, and to countersign such cheques, shall extend and be applicable and be exercised concerning the like matters in relation to the Commissioners of Woods and the Commissioners of Works respectively under this Act, in the same manner as if the provisions of the said Act of the eleventh and twelfth years of her Majesty, concerning such powers and authorities, were repeated and re-enacted in this Act, and the Commissioners of Woods and the Commissioners of Works respectively, were in every case substituted for the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings

Treasury to make rules for collection and receipt, &c. of land revenues.

36. The Treasury shall also have power to make from time to time such further or other rules and regulations as they may deem necessary, in relation to the collection and receipt of such land revenues, and to the payments thereout to her Majesty's Exchequer or otherwise, and to appoint such officer or officers as shall be required for that purpose, and for keeping the accounts of the said revenues, and for rendering such accounts by such officer or officers to the Commissioners for auditing the Public Accounts, for the audit of the said commissioners under the powers vested in them by law.

Abstract accounts of receipt and expenditure of capital and income of land revenues.

37. The Commissioners of Woods shall prepare and transmit to the Commissioners for auditing the Public Accounts, on or before the thirtieth day of November in each year, abstract accounts, classed under distinctive headings, of the receipt and

expenditure of the capital and of the income, derived from the possessions and land revenues of the Crown, and of any other funds under their control and management, in the year ended the thirty-first day of March preceding; and the Commissioners for auditing the Public Accounts shall examine the said accounts, and certify their conformity or otherwise with the provisions of the Acts of Parliament by which the receipt and expenditure of the funds under the control and management of the Commissioners of Woods are regulated. . . : Provided always, that nothing herein contained shall be construed to supersede or in any manner affect the detailed examination and audit of the accounts of the Commissioners of Woods, or of those of the Commissioners of Works, established by an Act passed in the eighth year of the reign of her present Majesty, intituled "An Act for auditing the accounts of the Commissioners of 7 & 8 Vict. " Woods, Forests, Land Revenues, Works, and Buildings," or of ^{c. 89.} the regulations under which such accounts are rendered.

[S. 38 *rep.* 29 & 30 *Vict. c.* 39. *s.* 46.]

39. The Commissioners for auditing the Public Accounts shall transmit copies of the said accounts of the Commissioners of Woods . . . , examined and certified as herein provided, together with their reports thereon, on or before the thirty-first day of January following the thirtieth day of November aforesaid, to the Treasury, who shall lay the same before the House of Commons on or before the thirty-first day of March following, if Parliament be then sitting, and if not, then within one fortnight after Parliament shall be next assembled.

Commissioners for auditing Public Accounts to transmit copies of the abstract accounts relating to land revenues to the Treasury, &c.

40. Nothing herein contained shall extend or be construed to extend to abridge or interfere with any rights of her Majesty, or of the Lord High Treasurer or the Commissioners of her Majesty's Treasury, or the Chancellor of the Exchequer for the time being, or any grantee of the Crown, in respect of any appointment usually made by her Majesty, or the said Lord High Treasurer or Commissioners, or the Chancellor of the Exchequer, or such grantee, or with the right of appointment of master keepers, under keepers, or other officers of or in any royal forest, so long as such last-mentioned right shall be vested in any warden or ranger of any such forest, or with any privileges or advantages which may be rightfully enjoyed or claimed under any letters patent granted by her Majesty or her predecessors of any office, bailiwick, walk, or lodge, within any of the royal forests to which this Act relates.

Saving of rights.

[S. 41 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

The SCHEDULE.

[Sects. 22, 27.]

An Act for vesting in commissioners the bridges now building over the Menai Straits and the River Conway, and the harbours of Howth ^{4 Geo. 4. c. 74. (Holyhead Roads.)}

and Holyhead, and the road from Dublin to Howth, and for the further improvement of the road from London to Holyhead.

* * * * *

3 & 4 Will. 4.
c. 43. (Holyhead Roads.) An Act for transferring to the Commissioners of his Majesty's Woods and Forests the several powers now vested in the Holyhead Road Commissioners and for discharging the last-mentioned commissioners from the future repairs and maintenance of the roads, harbours, and bridges now under their care and management.

4 & 5 Will. 4.
c. 66. (Menai and Conway Bridges.) An Act for empowering the Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings to pay the net proceeds of the tolls of the Menai and Conway bridges into the receipt of his Majesty's Exchequer at Westminster, to the account of the Consolidated Fund.

5 & 6 Will. 4.
c. 21. (Shrewsbury and Holyhead Roads.) An Act to amend and alter an Act of the fifty-ninth year of his late Majesty King George the Third, for vesting in commissioners the line of road from Shrewsbury in the county of Salop to Bangor Ferry in the county of Carnarvon, and for discharging the trustees under the several Acts of the seventeenth, twenty-eighth, thirty-sixth, forty-first, forty-second, forty-seventh, and fiftieth years of his then present Majesty from the future repair and maintenance thereof, and for repealing so much of the said Acts as affects the said line of road.

* * * * *

2 & 3 Vict.
c. 80. (Metropolis Improvements.) An Act to empower the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings to raise a sum of money for making additional thoroughfares in the Metropolis.

4 & 5 Vict.
c. 12. (Metropolis Improvements.) An Act to enable her Majesty's Commissioners of Woods to make a new street from Coventry Street, Piccadilly, to Long Acre, and for other improvements in the Metropolis.

3 & 4 Vict.
c. 87. (Metropolis Improvements.) An Act to enable her Majesty's Commissioners of Woods, Forests, Land Revenues, Works, and Buildings to make additional thoroughfares in the Metropolis.

* * * * *

4 & 5 Vict.
c. 12. (Metropolis Improvements.) An Act to enable her Majesty's Commissioners of Woods to make a new road from Coventry Street, Piccadilly, to Long Acre, and for other improvements in the Metropolis.

* * * * *

7 & 8 Vict.
c. 60. (Trafalgar Square.) An Act to provide for the care and preservation of Trafalgar Square in the city of Westminster.

* * * * *

8 & 9 Vict. c. xvii. (Metropolis Improvements, Clerkenwell.) An Act for amending the Acts relating to the street leading to Clerkenwell Green; and for extending such street, and making new streets out of the same.

8 & 9 Vict.
c. 63. Geological Survey.) An Act to facilitate the completion of a geological survey of Great Britain and Ireland, under the direction of the First Commissioner for the time being of her Majesty's Woods and Works.

* * * * *

8 & 9 Vict.
c. cxlviii. (Westminster Improvements.) An Act for improving parts of the city of Westminster.

* * * * *

9 & 10 Vict. c. 34. (Spitalfields Improvements.) An Act to enable the Commissioners of her Majesty's Woods to construct a new street from Spitalfields to Shoreditch.

9 & 10 Vict.
c. 38. (Battersea Park.) An Act to empower the Commissioners of her Majesty's Woods to form a royal park in Battersea Fields in the county of Surrey.

An Act to enable the Commissioners of her Majesty's Woods to construct an embankment and roadway on the north shore of the river Thames from Battersea Bridge to Vauxhall Bridge, and to build a suspension bridge over the said river at or near Chelsea Hospital, with suitable approaches thereto, including a street from Lower Sloane Street to the northern extremity of the bridge. 9 & 10 Vict. c. 39. (Battersea Bridge and Chelsea Improvements.)

* * * * *

An Act to empower the Commissioners of her Majesty's Woods to purchase land for the purposes of a harbour of refuge and breakwater in the Isle of Portland in the county of Dorset. 10 & 11 Vict. c. 24. (Portland Harbour.)

* * * * *

An Act to amend and enlarge the powers and provisions of the Westminster Improvement Act, 1845, and to authorise the application of certain rates in aid of the improvements. 10 & 11 Vict. c. cxxx. (Westminster Improvements.)

An Act to empower the Commissioners of Her Majesty's Woods to make certain alterations and improvements in the approaches to the castle and town of Windsor. 11 & 12 Vict. c. 53. (Windsor.)

An Act to enlarge the powers of an Act empowering the Commissioners of her Majesty's Woods to form a royal park in Battersea Fields, to facilitate the raising of monies authorized to be raised by the said commissioners for Metropolitan improvements, and to regulate and simplify the mode of keeping the accounts of the Commissioners of her Majesty's Woods. 11 & 12 Vict. c. 102. (Battersea Park.)

* * * * *

An Act to authorise further charges on "The London Bridge Approaches Fund," for the completion of certain improvements in the Metropolis. 13 & 14 Vict. c. 103. (Metropolis Improvements.)

An Act to enlarge and extend the powers of an Act of the ninth and tenth years of her present Majesty, intituled "An Act to enable the Commissioners of her Majesty's Woods to construct a new street from "Spitalfields to Shoreditch." 13 & 14 Vict. c. 109. (Metropolis Improvements.)

An Act to Amend an Act passed in the tenth year of her present Majesty's reign, for empowering the Commissioners of her Majesty's Woods to purchase land for a harbour of refuge and breakwater, in the Isle of Portland, and to make further provision for the division and application of the purchase money. 13 & 14 Vict. c. 116. (Portland Harbour.)

An Act for amending and enlarging the powers and provisions of "The Westminster Improvement Act, 1845," and "The Westminster Improvement Act, 1847," to extend the time for the compulsory purchase of lands, and for other purposes. 13 & 14 Vict. c. cii. (Westminster Improvements.)

CHAPTER XLVI.

AN ACT . . . to indemnify the Trustees of Copyhold Lands held in trust for Her Majesty. [1st August 1851.]

[Ss. 1, 2 local and personal.]

3. [Recital.] Be it enacted that in all cases where any messuages, lands, tenements, or hereditaments of copyhold or customary tenure have been at any time heretofore or shall at any time or times hereafter be purchased or taken in exchange by the Commissioners for the time being of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or . . . by the Commissioners of Woods, under any powers vested or to be vested in Trustees of copyholds purchased by Commissioners of Woods, &c. to be indemnified for fires, &c. paid by them.

them, and such messuages, lands, tenements, or hereditaments have been or shall be surrendered to or vested in any trustee for and on behalf of her Majesty, all sums of money, fines, fees, rents, services, and heriots, costs, charges, damages, and expences whatsoever, which shall become due or payable by or be recovered from or against any such trustee, his heirs, executors, or administrators, by reason of the surrender or conveyance to him of any such lands, tenements, and hereditaments of copyhold or customary tenure, or by reason of his admission thereto as trustee for her Majesty, or of any subsequent surrender thereof by him, be wholly borne, satisfied, and discharged . . . by the Commissioners of Woods, by and out of the possessions and land revenues of the Crown; and every such trustee, his heirs, executors, or administrators, lands, tenements, goods, and chattels, shall be wholly and fully indemnified by the said commissioners from and against all such sums of money, fines, heriots, rents, and services as aforesaid, and from and against all costs, charges, damages, and expenses whatsoever in relation to the premises.

CHAPTER XLIX.

AN ACT to repeal an Act of the Eleventh and Twelfth Years of Her present Majesty, for making preliminary Inquiries in certain Cases of Applications for Local Acts, and to make other Provisions in lieu thereof.^[1] [1st August 1851.]

[*Preamble recites 11 & 12 Vict. c. 129.*]

[S. 1 (*repealing recited Act as to applications to Parliament for local Acts*) *rep.* 38 & 39 *Vict. c. 66. (S.L.R.)*]

2. Whenever application shall be made to Parliament for a Bill whereby power is sought to construct any works on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, or to construct any bridge, viaduct, or other work across any creek, bay, arm of the sea, or navigable river, or to construct any work affecting the navigation of any harbour, port, tidal water, or navigable river, it shall be lawful for the Lords Commissioners for executing the Office of Lord High Admiral to require the promoters of such Bill to deposit at the Office of the Admiralty, in addition to the plans, sections, or other documents which may have been deposited at such office in compliance with the standing orders of either House of Parliament, all such statements and other documents as the said Lords Commissioners shall deem necessary to explain the objects of the intended application to Parliament, and the proposed interference with such tidal lands or navigation, as the case may be.

^[1] Short title, "The Preliminary Inquiries Act, 1851." See s. 8.

In relation to any Bill referred to in this Act, the Board of Trade are substituted for the Admiralty, 25 & 26 *Vict. c. 69. s. 3*]

Where works are proposed affecting navigation or tidal waters, &c. Admiralty may require statements, &c. in explanation.

3. It shall be lawful for the said Lords Commissioners, if they shall consider the same necessary or expedient, but not otherwise, to appoint a competent person or persons to be an inspector or inspectors, for the purpose of inquiring, in such manner and at such time and place as they shall direct, into all such matters as they shall deem necessary to enable them to report to Parliament their opinion upon every such Bill touching the jurisdiction or authority of the Lord High Admiral.

Admiralty may
appoint inspectors.

4. For the purposes of such inquiry the said inspector or inspectors may, by summons under his or their hands, summon before him or them any person having the custody of any map, survey, or book made or kept in pursuance of any Act of Parliament to produce such map, survey, or book for his or their inspection, and the said inspector or inspectors may summon, in manner aforesaid, any other person whose evidence shall, in the judgment of the said inspector or inspectors, be material to his or their inquiries, and pay or allow to every such person so summoned by him or them the reasonable charges of his attendance; and the said inspector or inspectors shall also have power to administer an oath to all persons who may be examined by him or them touching the premises.

Inspectors may
summon witnesses and
examine them
upon oath.

5. Any person, being summoned by such inspector or inspectors, who, after the delivery to him of such summons as aforesaid, or of a copy thereof, shall wilfully neglect or refuse to attend in pursuance of such summons, or to produce such maps, surveys, books, or other documents as he may be required to produce under the provisions herein-before contained, or to answer upon oath or otherwise such questions as may be put to him by such inspector or inspectors under the powers herein contained, shall be liable to forfeit and pay a penalty not exceeding five pounds, which may be recovered before any two or more justices having jurisdiction within the town, district, or place wherein such inquiry shall be held; and on conviction of the offender, and in default of payment of any such penalty, such justices shall be empowered and required to cause the same to be levied by distress and sale of the goods and chattels of the offender, by warrant under their hands and seals; and such penalty shall be paid to the treasurer of the county within which such conviction shall take place in aid of the county rate: Provided that no person, other than the promoters of the proposed Act, or their agents, shall be required to attend in obedience to any summons, unless the reasonable charges of his attendance be paid or tendered to him, nor to travel in obedience thereto more than ten miles from his usual place of abode.

Penalty for
non-attendance
or refusing to
produce documents or
answer questions.

6. Before instituting any such inquiry the said Lords Commissioners may, if they think fit, require and take such security for the payment of the whole or any part of the costs, charges, and expences to be incurred by them in respect of such inquiry

Admiralty may
take security
for payment of
expences of
inquiry.

(including the remuneration of the inspectors) as to them shall seem fit; and whenever any such security is given, the costs, charges, and expences, in respect whereof it is given, shall, to such amount as shall be certified by the said Lords Commissioners, (not exceeding the extent or amount of such security,) be a debt due to her Majesty from the person or persons respectively by whom the same is entered into.

Petitioners for private Bill to be deemed the promoters.

7. The persons whose names shall be subscribed to the petition for any private Bill shall be deemed to be promoters of such Bill for all the purposes of this Act, notwithstanding the persons subscribing such petition shall have signed for or on behalf of any other party.

Short title.

8. In citing this Act in other Acts of Parliament, and in legal and other instruments, it shall be sufficient to use the expression "The Preliminary Inquiries Act, 1851."

CHAPTER L.

AN ACT to amend . . . an Act of the Third and Fourth Years of King William the Fourth, in respect of the Assessment of Tithe and Tithe Rentcharges for certain Rates.

[1st August 1851.]

[*Preamble recites 3 & 4 Will. 4. c. 90. s. 33; 11 & 12 Vict. c. 63. s. 88.*]

Tithe rent-charges, &c. to be assessed under first recited Act in the same proportion as land.

[1.] Tithes, tithe rentcharges, moduses, compositions real, and other payments in lieu of tithe, shall be assessed under the firstly-recited Act as and in the same proportion of their annual value as land . . .

CHAPTER LIII.

AN ACT to consolidate and continue the Copyhold and Inclosure Commissions, and to provide for the Completion of Proceedings under the Tithe Commutation Acts. [1]

[1st August 1851.]

[*Whole Act except s. 9 rep. 52 & 53 Vict. c. 30. s. 13.*]

Commissioners may require, as a condition of any inclosure, the reservation to the lord of the manor of easements for working mines, &c.

9. [*Recital of 8 & 9 Vict. c. 118 & amending Acts.*] In the provisional order of the commissioners concerning the inclosure under the provisions of the said Acts of any waste lands of any manor it shall be lawful for the commissioners to require, and in their provisional order to specify, as one of the terms and conditions of such inclosure, the reservation to the lord of the manor, his heirs, successors, and assigns, of rights of way and other easements over the lands intended to be inclosed, for

[1 Short title, "The Inclosure Commissioners Act, 1851." See 55 & 56 Vict. c. 10.]

working and carrying away any mines, minerals, stone, and other substrata, the property of the lord of the manor, not under the lands proposed to be inclosed, and whether within the manor or not within the manor, and also for working and carrying away any mines, minerals, stone, and other substrata which may be intended to be reserved to or remain the property of the lord of the manor under the lands proposed to be inclosed, or for any of the purposes aforesaid; and in case it shall have been so declared in such provisional order, then the valuer shall and may reserve and award to the lord of the manor, his heirs, successors, and assigns, such liberty to construct railways, waggon-ways, and roads, and such rights of way and other easements, over the lands intended to be inclosed, for working and carrying away any such mines, minerals, stone, or other substrata, the property of the lord of the manor as aforesaid, as by the valuer, with the approbation of the commissioners, shall be thought reasonable, and as shall not be inconsistent with the terms of such provisional order; subject to such provisions for compensation for damage to be done to the surface in the exercise and enjoyment of such rights and easements, as to the valuer, with such approbation as aforesaid, shall be thought reasonable.

CHAPTER LV.

AN ACT to amend the Law relating to the Expences of Prosecutions, and to make further Provision for the Apprehension and Trial of Offenders, in certain Cases.^[1]

[1st August 1851.]

[*Preamble recites 7 Geo. 4. c. 64.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

2. All the provisions of the Criminal Law Act, 1826, as amended by this Act, authorizing and empowering courts to order payment of costs and expences, and compensation for trouble and loss of time, in cases of the several misdemeanours enumerated in section twenty-three of the Criminal Law Act, 1826, and concerning orders for payment of such costs, expences, and compensation, and the payment thereof, and all the provisions of any other Act for, concerning, or applicable to the payment of such costs, expences, and compensation in cases of the said misdemeanours, shall extend and be applicable in the case of any of the misdemeanours herein-after mentioned; namely, . . . unlawfully taking or causing to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person

Power of courts to allow expences in prosecutions for misdemeanours extended.
7 Geo. 4. c. 64.
s. 23.

[¹ Short title, "The Criminal Justice Administration Act, 1851." See 55 & 56 Vict. c. 10.]

having the lawful care or charge of her; conspiring to charge any person with any felony, or to indict any person of any felony; conspiring to commit any felony.

[*Ss. 3, 4 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Power to
Secretary of
State to
make regula-
tions as to
scales of costs,
&c.

5. It shall be lawful for one of her Majesty's Principal Secretaries of State . . . to make regulations as to the rates or scales of payment of all or any costs, expences, and compensations to be allowed or ordered to be paid under the said Act or any other Act or this Act to prosecutors and witnesses, and to persons attending the court in obedience to any recognizance or subpoena, in cases of criminal prosecutions, and (except as herein-after mentioned) to persons who may have been active in or towards the apprehension of persons charged with offences, and also regulations as to the rates or scales of payment according to which certificates may be granted by the examining magistrate or magistrates in respect of the expences of any prosecutor, or witness or witnesses for the prosecution, or other person, of attending before such magistrate or magistrates, and of any compensation for trouble and loss of time therein, in any case where any court or judge is empowered under the Criminal Law Act, 1826, or any other Act or this Act to order payment of such expences or compensation, and concerning the forms of such certificates and the details or particulars to be inserted therein of the expences, trouble, and loss of time to which such certificates relate; and it shall be lawful for one of her Majesty's Principal Secretaries of State from time to time to alter any such regulations, or make new regulations in relation to any of the matters aforesaid; and such regulations for the time being shall be binding on all courts and persons whomsoever.

7 Geo. 4. c. 64.

Amount of
costs, expences,
and compensa-
tions, how to
be ascertained.
7 Geo. 4. c. 64.

6. Where any court or judge empowered under the Criminal Law Act, 1826, or under any other Act or this Act, in this behalf shall order payment to any prosecutor, or witness or witnesses for the prosecution, or to any person attending the court in obedience to any recognizance or subpoena, in the case of any prosecution for felony or any misdemeanor or offence, of any costs or expences incurred, or of any compensation for trouble or loss of time, or order payment (except as herein-after mentioned) to any person, who may appear to have been active in or towards the apprehension of any person charged with any offence, of compensation for expences, exertions, and loss of time in or towards such apprehension, the amount of such costs, expences, or compensation shall be ascertained by the proper officer of the court according to the regulations made under this Act; and where the expences and compensation in respect of attending before any examining magistrate or magistrates are so ordered to be paid, such expences and compensation shall also be ascertained by the proper officer of the court according to such regulations, but the amount thereof as so ascertained shall not

exceed the amount mentioned in the certificate of the examining magistrate or magistrates, and, save as aforesaid, the certificate of any examining magistrate or magistrates shall not be conclusive as to the amount to be allowed for expences of attendance before him or them, or for compensation for trouble or loss of time therein.

7. Provided always, that nothing in this Act, or in any regulations under this Act, shall interfere with or affect the power of any court to order payment to any person, who may appear to such court to have shown extraordinary courage, diligence, or exertion in or towards any such apprehension as herein-before mentioned, of such sum as such court shall think reasonable and adjudge to be paid in respect of such extraordinary courage, diligence, or exertion.

Saving as to payments in respect of extraordinary exertions.

8. [*Recital of 7 Geo. 4. c. 64. s. 28.*] When any person appears to any court of sessions of the peace to have been active in or towards the apprehension of any party charged with any of the offences in the said enactment mentioned which such sessions may have power to try, such court of sessions shall have power to order compensation to be paid to such person in the same manner as the other courts in the said enactment mentioned; provided that such compensation to any one person shall not exceed the sum of five pounds, and that every order for payment to any person of such compensation be made out and delivered by the proper officer of the court unto such person without fee or payment for the same.

Power of quarter sessions to order compensation to persons active in apprehending offenders.

9. [*Recital.*] It shall be lawful for the justices of the peace at their general or quarter sessions for the several counties, ridings, divisions of counties, and liberties throughout England and Wales . . . and the council or other governing body in every borough in England and Wales, from time to time . . . to recommend to one of her Majesty's Principal Secretaries of State that the clerks of the peace, the clerks of special and petty sessions, and the clerks of the justices of the peace within their several jurisdictions, or any of such clerks as aforesaid, be paid by salaries in lieu of fees and other payments, or . . . to recommend that the amounts of all or any of the salaries for the time being payable be reconsidered, . . . and, where payment by salary in lieu of fees or the reconsideration of the amounts of any salaries is recommended, to state the amount of salary which, in the opinion of such justices, council, or governing body, should in each case be paid; and every such recommendation, being signed by the chairman of the court of general or quarter sessions, or the mayor or other head officer of the borough, shall be transmitted to the secretary of State; and it shall be lawful for such Secretary of State, when any such recommendation is so made to him, by order under his hand, if he so think fit, to direct that all or any of the clerks to which such recommendation refers be paid by salary, and to fix the amount of salary to be so paid, or vary the amount of salary for

Clerks of the peace, &c. may be paid by salaries in lieu of fees.

the time being payable to any such clerk . . . ; and such Secretary of State shall cause copies of every order made under this enactment affecting any clerk of the peace, or any clerks of special sessions or petty sessions, or clerks to the justices within the district of any clerk of the peace, to be transmitted to such clerk of the peace, to be by him distributed, where occasion shall require, to such other clerks as aforesaid; and the salary for the time being payable to any such clerk under any such order shall be paid out of any county rate or rate in the nature of a county rate made in the county, riding, division, or liberty, or out of the borough fund of the borough, as the case may be, for or in which such clerk of the peace or other clerk to whom the same is payable is appointed or acts: Provided always, that . . . no clerk of the peace or other such clerk as aforesaid appointed after the passing of this Act shall be entitled to any compensation on account of any reduction of his emoluments occasioned by any order made under this enactment: Provided also, that no order shall be made in pursuance of any recommendation of the council or governing body of any borough in relation to the mode of payment or the amount of salary of any such clerk other than the clerk of the peace for such borough, unless the justices of such borough at a meeting of such justices approve of such recommendation, and such approval be certified to such Secretary of State, under the hand of the chairman of such meeting.

Salary to be
remuneration
for all business.

10. . . . where any clerk is paid by salary under any order made by virtue of this Act, such salary shall include and be deemed the remuneration for all business which such clerk may, by reason of his office, be called on to perform; and no other payment shall be made for any such business, or for or to a deputy of any such clerk.

Clerks paid by
salaries shall
account for
fees to the
treasurer of
the county or
borough.

11. Save as herein-before provided, all the fees, which any such clerk as aforesaid would have been for the time being entitled to receive to his own use if such order had not been made, shall, so long as any order for payment of such clerk by salary in lieu of fees is in force, be by him received and paid, in any county, riding, division, or liberty, to the treasurer in aid of the county rate or rate in the nature of a county rate of such county, riding, division, or liberty, and in any borough to the treasurer in aid of the borough fund; and such fees shall be accounted for from time to time in such manner and under such regulations as the justices at quarter sessions, or in any borough the council or other governing body, may direct.

Fees may be
remitted by
justices.

12. Where any clerk is paid by salary by virtue of any order made under this Act, any justices or justice before whom any proceeding is had, whereon a fee is payable which should be accounted for by such clerk under this Act, or before whom any person is summoned for nonpayment of any such fee, may remit such fee in whole or in part for poverty or other

reasonable cause, in their or his discretion; and in every such case the justices or justice by whom any fee is wholly or in part remitted shall cause an entry to be made, in a book or books to be kept for that purpose by such clerk, of the nature and amount of the several fees so remitted, and of the reason for the remission in such case; which entry shall be signed by the justice or two or more of the justices authorizing such remission, and shall be a sufficient voucher to discharge the clerk therefrom.

13. [*Recital of 4 & 5 Will. 4. c. 36. s. 17.*] The said recited enactment shall be repealed: Provided always, that such repeal shall not be construed to give authority to the said justices of the peace to try any person or persons for any offence which the justices of the peace acting in and for any county, riding, division, or liberty, are restrained from trying under the Act of the session holden in the fifth and sixth years of her Majesty, chapter thirty-eight.

Recited enactment repealed, with saving of restriction under 5 & 6 Vict. c. 38.

[*S. 14 rep. 37 & 38 Vict. c. 7. s. 5.*]

15. The court of quarter or general sessions or adjourned session of the peace for the county of Middlesex shall possess the same powers for dividing such court of quarter or general or adjourned sessions as are now possessed by the courts of quarter and general and adjourned sessions of the peace in counties in which there is an order in force for the appointment of a permanent chairman and deputy chairman; and whensoever such court shall exercise such power, the assistant judge shall appoint a person qualified to act as deputy assistant judge to preside as chairman with the justices who shall be appointed to sit apart: Provided always, that the name of the person who shall be so appointed shall at some previous time have been transmitted to and approved of by one of her Majesty's Principal Secretaries of State as a fit and proper person to be from time to time appointed as such deputy assistant judge.

Middlesex quarter sessions.

16. The presence of one of the justices so as aforesaid set apart shall not be essential to the formation of the court in which such deputy assistant judge shall preside; but the jurisdiction of such justices shall not be in any way lessened by such appointment.

Presence of one of such justices not essential, &c.

[*S. 17 rep. 37 & 38 Vict. c. 7. s. 5.*]

18. [*Recital of 11 & 12 Vict. c. 42. s. 13; 11 & 12 Vict. c. 43.*] The bailiffs of Jersey and Guernsey respectively, or in their respective absence the lieutenant bailiffs of such islands respectively, within their respective bailiwicks or jurisdictions, the judge of Alderney, or in his absence any jurat of such island, within such island, and the seneschal of Sark, or in his absence his deputy, within such island, shall have all such power and authority to indorse warrants as by the said Acts respectively is given or expressed or intended to be given to any officer within

Indorsement of warrants in the Channel Islands.

any of such isles having jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders, and for such purpose shall have authority to administer an oath; and all the provisions of the said Acts shall be construed as if the officers authorized to indorse warrants by this enactment had been so authorized by the said section of the Indictable Offences Act, 1848.

11 & 12 Vict.
c. 42.

In certain counties of cities and towns prisoners may be committed for trial at assizes held for adjoining county.

19. Whenever any justice or justices of the peace, or coroner, acting for any county of a city or county of a town corporate within which her Majesty has not been pleased for five years next before the passing of this Act to direct a commission of oyer and terminer and gaol delivery to be executed, and until her Majesty shall be pleased to direct a commission of oyer and terminer and gaol delivery to be executed within the same, shall commit for safe custody to the gaol or house of correction of such county of a city or town any person charged with any offence committed within the limits of such county of a city or town not triable at the court of quarter sessions of the said county of a city or county of a town, the commitment shall specify that such person is committed pursuant to this Act; and the recognizances to appear to prosecute and give evidence taken by such justice, justices, or coroner shall in all such cases be conditioned for appearance, prosecution, and giving evidence at the court of oyer and terminer and gaol delivery for the next adjoining county; . . . and the justice, justices, or coroner by whom persons charged as aforesaid may be committed, shall deliver or cause to be delivered to the proper officer of the court the several examinations, informations, evidence, recognizances, and inquisitions relative to such persons, at the time and in the manner that would be required in case such persons had been committed to the gaol of such adjoining county by a justice or justices or coroner having authority so to commit; and the same proceedings shall and may be had thereupon at the sessions of oyer and terminer or general gaol delivery for such adjoining county as in the case of persons charged with offences of the like nature committed within such county.

[*Ss. 20, 21 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 22 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Application of provisions of 38 Geo. 3. c. 52. and 51 Geo. 3. c. 100. as to execution of sentences, &c.

23. All the provisions of the Act of the fifty-first year of King George the Third, chapter one hundred, applicable to convictions in pursuance of the provisions of the Act of the thirty-eighth year of King George the Third, chapter fifty-two, and to the execution of the sentences passed upon any convicts on such convictions, and all the provisions of the said Acts respectively concerning the payment of expences, shall be applicable in all cases of persons who may be tried in or removed for trial to any

adjoining county in pursuance of the provisions of this Act, in like manner as in cases of persons tried in or removed for trial to any adjoining county in pursuance of the provisions of the said Act of the thirty-eighth year of King George the Third.

24. For the purposes of this Act the counties named in the second column of [¹] schedule (C.) to the Municipal Corporations Act, 1835, shall be considered next adjoining the counties of cities and towns corporate in the first column of the same schedule in conjunction with which they are respectively named.

Next adjoining county.
5 & 6 Will. 4.
c. 76.

25. This Act shall not extend to Ireland or to Scotland.

Extent of Act.

CHAPTER LVI.

AN ACT to sanction the Service by Post of Notices relative to the Proceedings of certain charitable Institutions, and to make further Provision as to the Service of such Notices in future. [1st August 1851.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

2. All notices to the governors or members of or subscribers to any present or future charitable institution in England, whether incorporated or not, which by the charter, statutes, laws, or rules (as the case may be) of such institution for the time being are or shall be required to be given, may be served by the same being transmitted through the post, directed according to the address given in the list of the governors or members of or subscribers to such institution for the time being in use at the chief establishment thereof, in such time as to admit of their delivery in the due course of delivery by post at or before such period (if any) as is or shall be prescribed by the charter, statutes, laws, or rules (as the case may be) for the time being of such institution for the giving of such notices; and in proving such service it shall be sufficient to prove that such notice was so directed as aforesaid, and put into a general post office in such time as aforesaid; but so nevertheless that nothing in this Act contained shall be held to render invalid any personal service of any notice, or to render necessary to the effectual service of any notice any further act, matter, or thing than would have been required for the service thereof by the charter,

Notices to governors, &c. of charities may be sent by post, &c.

[¹ See now Sixth Schedule to the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50.)]

statutes, laws, or rules for the time being of the institution which the same shall concern, if this Act had not passed; and no notice of any intended court, board, meeting, or election, shall be required to be served, either by post or otherwise, on any governor or member of or subscriber to any such institution who shall not for the time being be within the United Kingdom, anything in any such charter, statutes, laws, or rules to the contrary notwithstanding.

CHAPTER LVII.

AN ACT to consolidate and amend the Laws relating to Civil Bills and the Courts of Quarter Sessions in Ireland . . . [1]
[1st August 1851.]

[*Preamble.*]

[S. 1 *rep.* 38 & 39 *Vict. c.* 66 (*S.L.R.*)]

*Assistant
barristers.*

*Appointment
of assistant
barristers.*

2. It shall be lawful for the Lord Lieutenant on the death, resignation, or removal of any assistant barrister to nominate and appoint to the office of assistant barrister for the county of Dublin, and for each and every other county and riding, a practising barrister at law of ten years standing at the least, who shall have actually practised ten years in her Majesty's superior courts in Dublin, and shall not at the time of his appointment to such office have retired from such practice; and every assistant barrister, including every assistant barrister to be appointed for the said county of Dublin, shall hold his office during good behaviour, and no longer: Provided always, that it shall be lawful for her Majesty to remove any such assistant barrister from his office upon the address of both Houses of Parliament; and every assistant barrister shall be sole judge of the civil bill court to be holden under this Act, and shall be ipso facto in the commission of the peace, and a justice of the peace for the county for which or for any riding of which he shall be so appointed, even though no commission should be issued for the purpose, and shall duly attend at every session of the peace and adjournment thereof holden in such county or riding, and shall continue such attendance during the whole of every session and every adjournment thereof, save and except such sessions or adjournments as shall be held for any other purpose than the administration of justice in criminal cases and the hearing of causes in manner herein mentioned by civil bill, and shall by virtue of his office be and preside as chairman of the justices at general or quarter sessions; and it shall and may be lawful for such assistant barrister to proceed in the criminal

[¹ Short title, "The Civil Bill Courts (Ireland) Act, 1851." See 55 & 56 *Vict. c.* 10.]

or other business at such sessions, although no other justice of the peace for the county, riding, or place shall be in attendance: Provided also, that no person holding the said office of assistant barrister shall be capable of being a member of the House of Commons.

3. No assistant barrister already appointed, if removed to any other county or riding, nor any assistant barrister hereafter to be appointed, shall proceed to act as assistant barrister until he shall have first taken the following oath before the Lord High Chancellor or Keeper or any Commissioner of the Great Seal of Ireland for the time being; which oath the said chancellor, keeper, or commissioner is hereby empowered to administer; that is to say,

‘ I, *A.B.*, do swear, that I will execute the office of assistant barrister for the county of [or riding of the county of of], and for any other county or riding to which I may be hereafter appointed, diligently, justly, and impartially, and without favour, affection, or malice, do equal right to all the Queen’s subjects that shall come within my jurisdiction; and that I will in all things, to the best of my skill and power, faithfully execute all the duties imposed or that shall hereafter be imposed on me in virtue of such office.

‘ So help me God.’

Provided always, that any assistant barrister, who shall have once taken the said oath, shall not be obliged to repeat the same on any subsequent removal to any county or riding.

4. The several assistant barristers shall (over and above the annual sums payable to them in respect of the registration or revision of the lists of parliamentary voters) severally and respectively receive the annual salaries mentioned and specified, relating to them respectively, in the schedule (B.) to this Act annexed, in lieu of their former salaries and fees, the said several salaries to be paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland by four quarterly payments—

Oath of assistant barristers.

Assistant barristers to take the following oath before Lord Chancellor before they act. Oath.

Salaries, &c.

Salaries of assistant barristers.

[*S. 5 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

6. It shall be lawful for the Lord Lieutenant, by and with the consent of the Privy Council in Ireland, to remove any assistant barrister from any county or riding to any other county or riding, to act therein as assistant barrister: Provided always, that no such removal shall take place without the assent of such assistant barrister.

Lord Lieutenant may remove assistant barristers to other counties with their assent.

7. When it shall appear to the Lord High Chancellor, Keeper, or Commissioners of the Great Seal of Ireland, for the time being, that any assistant barrister is unable to attend at the time appointed for any session of the peace in any county or riding, or at any adjournment thereof, or to continue his attendance thereat as aforesaid, it shall and may be lawful for

Appointment during temporary absence of assistant barrister.

the Lord Chancellor, Keeper, or any Commissioner of the Great Seal for the time being, to nominate or appoint some other barrister of ten years standing at the least, and who shall not have retired from practice, to do and execute the duty of such assistant barrister for such time as such illness or absence shall continue; and every person appointed under this Act to do and execute the duty of assistant barrister during the absence or non-attendance of such assistant shall, before he shall enter on the duties of the said office, take the oath herein-before required to be taken by such assistant barrister respectively, *mutatis mutandis*, either before such chancellor, keeper, or commissioner, or publicly in open court at the sessions of the peace or adjournment thereof on the first day on which he shall attend at any session or adjournment thereof (and which oath the clerk of the peace or his deputy is hereby authorized and required in such case to administer) to execute such duty, and shall have all and every the powers and authorities given to such assistant barrister by this and any other Act or Acts of Parliament, and be authorized in every respect to do and execute, during the continuance of such absence, and no longer, every matter and thing which such assistant barrister might himself lawfully do if personally present.

Adjournment
of sessions on
non-attendance
of assistant
barrister.

8. [*Recital.*] In case it shall so happen that any assistant barrister shall not be in attendance to open such sessions on the day appointed for opening the same, or after having opened the same shall not continue his attendance until the business of such sessions shall be completed, it shall and may be lawful for any one justice of the peace for the county, or for the clerk of the peace or his deputy, in the absence of any justice, at the hour of five o'clock in the afternoon, and not before that hour, to open and adjourn, or to adjourn only, as the case may be, such sessions, and so from time to time and for such reasonable time as shall be sufficient for such Chancellor, Keeper, or Commissioner, to be informed of such illness or absence and to appoint some person to do the said duty, and for such person to repair to the place where such sessions should be held and take upon himself the execution of such duty.

Payment of
deputies.

9. Every person appointed under this Act during the illness or absence of any assistant barrister to do and execute the duty of such assistant barrister for him shall receive and be paid such compensation for his labour and trouble therein as the Lord Chancellor, Keeper, or Commissioners of the Great Seal of Ireland, for the time being, shall think fit to direct and appoint, the same to be paid out of the salary hereby provided for such assistant barrister who shall so be absent.

Clerks of the
peace.

Clerks of the
peace to act
as clerks to
assistant

10. The clerks of the peace for the several counties respectively, or their sufficient deputies, shall be and are hereby required to act as clerks to the said assistant barristers respectively in the execution of the duty imposed on them by this Act, and as registrars respectively of the said court, and shall be obedient to

the said assistant barristers respectively in all lawful commands which they shall respectively receive from the said respective assistant barristers relative to the business of the said court, and the duty imposed by this Act on the said assistant barristers and clerks of the peace respectively; and the said several clerks of the peace and their respective deputies shall and they are hereby required to keep books for the entering and registering of all civil bill causes, and shall enter and register the same; and such books shall be records of the respective counties to which they shall belong; and no clerk of the peace, or any deputy or clerk of his, or any person for his use or benefit, shall act as an attorney in any cause which such assistant barristers are by this Act empowered to hear and determine; and if he, they, or any of them shall so act as an attorney in any such cause, by himself or any other for his use or benefit, he shall forfeit the sum of fifty pounds to any person who shall, within one year after such offence committed, sue for the same by action or information in any of her Majesty's courts of record in Dublin, and shall, moreover, in case of judgment being had against him, be incapable of ever holding such office of clerk of the peace, or deputy clerk of the peace, as the case may be.

barristers and
as registrars,
&c., but not as
attorneys.

11. Every clerk of the peace, and deputy clerk of the peace, at the first sessions at which they shall respectively attend after their respective appointments, and at the commencement of such sessions, shall and they are hereby respectively required to make and sign an affidavit in writing, to be attested by the assistant barrister of such respective county, and to be deposited in the office of the clerk of the peace amongst the records of the court of such county, in the form following; (that is to say,)

Clerks of the
peace, &c. to
make affidavit.

' I, A.B., clerk of the peace [*or deputy*], do swear that I have
' not already, directly or indirectly, taken, and will not, directly
' or indirectly, take, so long as I shall continue to hold the office
' of clerk of the peace [*or deputy*], any greater or other fee, or
' sum or sums of money, or other thing, for or on account of any
' matter or thing done or to be done in any cause to be heard
' and determined before the assistant barrister of this county
' [*or riding of the county of*] by civil bill, than is or
' shall be allowed by law.'

[S. 12 *rep.* 40 & 41 *Vict. c.* 56. s. 6.]

13. No person shall be admitted to practise as an attorney before any assistant barrister, or the recorder of Dublin, in any civil bill court, or at the court of general quarter sessions, but such person only who is or shall be admitted an attorney in one of her Majesty's superior courts in Dublin; and no attorney shall be suffered to practise as aforesaid in any county wherein he is or shall be a justice of the peace.

Attorneys.

No one to act
as attorney un-
less admitted.

14. It shall and may be lawful for the recorder of Dublin, or any assistant barrister, if any attorney practising in causes by civil bill shall appear to him, either upon such recorder, or

Suspension of
attorneys for
misconduct.

assistant barrister's own view in open court, or by examination of others upon oath, to have acted in any such cause corruptly, or knowingly and wilfully against his duty as an attorney, to make an order, to remain of record with the clerk of the peace, suspending such attorney from practising on civil bills, for a given time, in such county or riding, which order shall be binding: Provided nevertheless, that it shall be lawful for any attorney against whom such order shall be made to appeal, if such order shall have been made in the county or county of the city of Dublin, to any of the judges at nisi prius in Dublin, and if in any other county to the judge of assize at the sittings or assizes to be holden within twelve months after such order made; which judge may, by examination on oath, examine into the ground of such order, and reverse, vary, or affirm the same as he shall see reason.

*Process
officers.*

Appointment
of officers to
serve civil
bill processes.

15. The several persons now holding the office of process officer or process server in the several counties and ridings shall continue to hold the same as heretofore, until removed by the assistant barrister of their respective counties or ridings; and . . . at such times as occasion may require, each and every of the assistant barristers shall and may, by warrant under his hand and seal, from time to time appoint such number of fit and proper persons, being householders residing in the principal market towns or in other convenient places within the said counties or ridings, as to the said assistant barrister shall from time to time appear to be necessary, to be officers for the service of civil bill processes within such county or riding, or within such division of such county or riding as shall be specified in any such warrant; and it shall be lawful for each and every such officer heretofore or hereafter so appointed, and he and they is and are hereby authorized and required, to serve such process accordingly within such county or riding or within such division of such county or riding as aforesaid; and it shall not be lawful for any person whomsoever, other than one of such officers so heretofore appointed or hereafter to be appointed, to serve any such process; and any service or pretended service of any process by any other person whomsoever (save as herein-after provided) shall be wholly null and void to all intents and purposes whatsoever; and any such officer already appointed or who shall be hereafter appointed for the service of process shall be removable and shall and may be removed at the will and pleasure of the assistant barrister of the county or riding for the time being: Provided always, that nothing herein contained shall prevent the service of any process in any proceeding by ejectment or replevin by any person other than such process officer.

Names and
places of abode
of officers to
be published.

16. The name and place of abode of each and every officer already appointed or who shall hereafter be appointed by any assistant barrister to serve such process as aforesaid, and also the name and place of abode of every person removed as aforesaid from the said office of process officer, shall be published in

some one or more public newspaper or newspapers circulated in the county or riding, and shall be otherwise promulgated and made known in such manner and at such times as to such assistant barrister shall seem expedient.

17. Every officer who shall hereafter be appointed by any assistant barrister for the serving of process shall be entitled to and shall receive a salary of ten pounds a year, to be paid quarterly, upon a certificate, signed by the assistant barrister of the county or riding, specifying the amount so to be paid, and stating that such officer has duly performed the duty of his office to the satisfaction of the assistant barrister during the preceding quarter, or during such period thereof as such person shall have so served; . . .

Salaries of
process officers.

18. [1] It shall be lawful for any officer hereafter appointed by any assistant barrister for the serving of process, in addition to the salary made payable under this Act, to receive a fee of sixpence for the service of every process which he shall be required to serve in cases where there is only one defendant or there are several defendants residing in the same dwelling house, and one shilling in case of two or more defendants not residing in one and the same dwelling house; and which said sums of sixpence or one shilling, as the case may be, shall be paid to such officer on the delivery of such process to him for the purpose of being served by him; and if any person whosoever, other than one of such officers so appointed as aforesaid, shall serve or pretend to serve any such process (save in ejectment or replevin cases), and shall receive or take any fee or reward for such service, he shall be guilty of a misdemeanor, and shall be liable to be prosecuted accordingly: Provided always, that if a process server of any county or riding shall be required (as herein-after provided) to serve process upon any defendant residing out of the county or riding for which he shall be acting as such process officer, he shall be entitled to receive a fee of two shillings and sixpence for such service, together with his reasonable travelling expences incurred in effecting such service.

Process
officers may
receive certain
fees, in addi-
tion to salaries.

19. A book or books shall be kept by every officer appointed for the service of process, in such form as shall be directed or approved by the assistant barrister, in which shall be entered the names of the plaintiff and defendant by or against whom any process shall be issued, the cause of action, the day on which such process shall be received to be served, the day on which such process shall be served or executed, the place where and the name or description of the person on or with whom such process shall be served or left; and in case any such process shall not have been duly served or left, then the cause of such service not having

Books to be
kept by officers
for entering
particulars of
service of
process.

[1 As to fees now payable to process servers, under 40 & 41 Vict. c. 56. s. 85, see Schedule Part XI., annexed to Rules of 1st March 1890 (Statutory Rules and Orders, 1890, p. 222).]

been effected shall be stated ; and each and every process officer shall attend, and produce such book or books to the assistant barrister, at each and every sessions of the peace, or shall cause such book or books to be produced to such barrister in case of the unavoidable absence of such process officer ; and in case of death, illness, or such absence as aforesaid of any such process officer, the book or books of such process officer, kept by him as aforesaid, verified on oath as to his handwriting by some credible person, shall be produced at the sessions, and shall there be *primâ facie* evidence of the truth of the several matters entered therein as aforesaid.

Books to be
evidence in
case of death,
&c. of officer.

Interpreters.

Salaries and
appointment of
interpreters.

20. Whenever it shall be certified by the assistant barrister of any county to the grand jury of such county that an interpreter is necessary at the quarter sessions for such county, it shall be lawful for the grand jury, and they are hereby required, to present, without any previous application at sessions, to be levied off such county, any sum not exceeding fifteen pounds, at each assizes, as a salary or payment for such interpreter ; and it shall be lawful for any such assistant barrister to appoint either one interpreter for the whole of such county or riding of a county, or separate interpreters for each district in which sessions shall be holden, at his discretion, and to direct the salary to be presented as aforesaid to be paid among such interpreters, if more than one shall be appointed, in such manner as he shall think fit ; and upon a certificate, signed by such assistant barrister, specifying the amount of such payment, being produced to the treasurer of such county, it shall be lawful for such treasurer, and he is hereby required, to pay to such interpreter or interpreters, after every assizes, the amount of the payment mentioned in such certificate, not exceeding in the whole the sum presented by the grand jury for such purpose ; and each and every such interpreter may be removed at the will and pleasure of the assistant barrister for the time being, and any other person or persons appointed in his place by such assistant barrister.

Times of hold-
ing quarter
sessions.

21. In each year the general or quarter sessions of the peace in and for every county (save and except the county of the city of Dublin and the county of Cork) shall be held at the following times ; that is to say, the Easter sessions on any of the fourteen days next after the twenty-fifth day of March ; the summer sessions on any day between the fourth day and the twelfth day next after the last day of Trinity term, both days inclusive ; the October sessions on any of the fourteen days next after the eighth day of October ; and the Hilary sessions on any of the fourteen days next after the twenty-sixth day of December ; and it shall and may be lawful for the assistant barrister in each county (except the county of Cork), at the general or quarter sessions to be held in such respective county next before each Michaelmas term, to fix and appoint the times for holding the next four general or quarter sessions, of which time due notice shall be

posted by the clerk of the peace on or before the fifteenth day of November in each year, and also six weeks before the day of holding each such session.

22. The recorder of Dublin and the recorder of Cork shall continue to hold courts for the hearing of civil bills in the manner and at the times that they have respectively heretofore held the same; and nothing herein contained shall extend to affect the power of such recorders respectively to appoint the time or times for the holding of such courts respectively; . . .

Recorders of
Dublin and
Cork to hold
civil bill courts
as heretofore.

23. And whereas an Act was passed in the fourth year of his late Majesty King George the Fourth, intituled "An Act to divide the county of Cork for the purpose of holding additional general sessions therein," whereby, after reciting that the county of Cork is very extensive and populous, and that it is requisite, for the due administration of justice within the said county, and the preservation of the peace therein, that general sessions of the peace should be holden frequently therein, it was enacted, that from and after the first day of September one thousand eight hundred and twenty-three, for the purpose of holding the general sessions of the peace in the said county of Cork, and for and in respect of all matters relating to such general sessions, but not for any other purpose or in any other respect, the said county of Cork should be and the same was thereby declared to be divided into two ridings, to be called the East Riding and the West Riding of the county of Cork; and that the East Riding of the said county of Cork should comprise and contain the baronies and the liberties following, that is to say, the barony of Duhallow, the barony or united baronies of Orrery and Kilmore, the barony or united baronies of Condons and Clongibbons, the barony of Fermoy, the barony of Kinnatalloon, the barony of Imokilly, the barony of Kerry-Currihy, the barony of Kinnalea, the barony of Barrymore, the barony of Barretts, the barony of East Muskerry (except only the parishes of Aheena and Ahabullog within the said barony), the liberties of the City of Cork, the liberties of Youghal, and the liberties of Kinsale; and the West Riding of the said county of Cork should comprise and contain the baronies and parts and divisions of the baronies following, that is to say, the barony of Beer or Bear, the barony of Bantry, the barony of West Muskerry, the parishes of Aheena and Ahabullog in the barony of East Muskerry, the barony of Kinalmeaky, the barony of Courcies, the barony or united baronies of Ibanne and Barryroe, otherwise called Barryroe and Ibanne, and the baronies of East Carberry and West Carberry, consisting of the eastern and western divisions of East Carberry and the eastern and western divisions of West Carberry; and from and after the said first day of September the said county was thereby declared to be divided accordingly for the purposes aforesaid, and no other; provided that such division of the said county of Cork for the purposes aforesaid should not be extended nor construed to extend to change or alter, or to limit or

Cork County,
§c.

4 Geo. 4. c. 93.

abridge, or abolish, any power, authority, jurisdiction, right, duty, or privilege of any high sheriff, sub-sheriff, or under sheriff, justice of the peace, or other magistrate, clerk of the Crown, clerk of the peace, or other officer whatsoever, of or in the said county, who should, at the passing of the said Act, or at any time after the passing of the said Act, hold, exercise, or enjoy any such office, or any other civil office whatever, within the said county of Cork, but that all the powers, authorities, jurisdictions, rights, duties, and privileges of such officers should continue in force and be exercised and carried into effect throughout the said county of Cork in like manner, to all intents and purposes whatsoever, as if the said Act had not been had or made, except only so far as it was expressly provided and directed by the said Act: Now be it enacted, that the said county of Cork shall continue to be, until altered as herein-after provided, for the purposes aforesaid, and none other, divided in such manner and form, and under such regulations, conditions, and provisions, as hereby above recited and herein set forth as aforesaid: Provided always, that it shall and may be lawful for the Lord Lieutenant at any time, and so from time to time, by and with the advice and consent of the Privy Council, to alter the boundaries or divisions of the said two ridings now existing or hereafter to exist, and to direct that such ridings shall comprise and contain such baronies, or parts or divisions of baronies, as to him, with such advice, shall seem fit, and to direct that such new boundaries or divisions shall become and be the boundaries of the said two ridings; and from thenceforth the boundaries herein-before provided of the said two ridings shall cease, and the said two ridings shall thenceforth contain and comprise the several baronies and parts and divisions of baronies so ordered and directed as aforesaid, subject to the several regulations, conditions, and provisions herein-before set forth.

Division of
county of
Cork.

Number of
general ses-
sions to be
held in each
riding.

24. . . . It shall and may be lawful for the Lord Lieutenant, at any time, by and with the advice and consent of the Privy Council, to order and direct that four general sessions of the peace, and no more, shall thenceforth be holden in each of the said ridings of the said county of Cork in each year, for the discharge of all such criminal and other business as may be determinable at general or quarter sessions of the peace, or in a civil bill court, in place and stead of the said five general sessions of the peace so herein-before appointed, and to order and direct that the same shall be holden at such times and places and in such manner, in each of the said ridings, as to the said Lord Lieutenant, with such advice as aforesaid, shall seem fit, and also to direct and appoint the manner of making known the periods at which the same shall be holden; . . . and all the criminal and other business of the general sessions of the peace and of the civil bill courts in and for the said several ridings of the said county shall thenceforth be heard and determined at the said four general sessions of the peace so to be appointed as aforesaid.

25. [*Recital.*] It shall and may be lawful for the Lord Lieutenant, by and with the advice and consent of the Privy Council, on an application made by the magistrates of the county, at a meeting of such magistrates duly convened by the lieutenant of such county, to order and direct that any county in Ireland shall be divided into two ridings or districts, for the purpose of holding sessions therein, and to direct and appoint what baronies or half baronies or other portions of land shall be contained in each of such ridings, and to order and direct that general quarter sessions shall be holden in and for such ridings respectively, and at such time and times and in such towns or places as shall be deemed most expedient for that purpose.

Lord Lieutenant may divide any county into two ridings.

26. It shall and may be lawful for the Lord Lieutenant from time to time to nominate and appoint a practising barister at law, of ten years standing at the least, and who shall have actually practised ten years, and shall not at the time of his appointment have retired from practice in her Majesty's courts of law in Dublin, to act as an assistant to the justices at the several sessions of the peace and adjournments thereof to be holden under this Act for each of the ridings of the counties so divided as aforesaid; and the said respective assistant barristers shall have all such powers, jurisdiction, and authority in and for such respective ridings for which they shall be respectively appointed as any assistant barrister can or may have in and for any county in Ireland; ~~and it shall and may be lawful for the said Lord Lieutenant to order and declare that each of such assistant barristers so appointed for such ridings as aforesaid shall receive and be paid such one of the several yearly salaries as are herein provided for assistant barristers mentioned in the class 2. or class 3. in the schedule (B.) to this Act annexed, as to the said Lord Lieutenant shall seem meet.~~

Lord Lieutenant may appoint assistant barristers for each of such ridings.

Salaries of such assistant barristers.

5 L. R. 1721

27. For the purpose of holding the said general sessions of the peace, and of all matters connected with or relating to such general sessions, the said two ridings of the county of Cork, and the two ridings of any other county which shall be hereafter divided under this Act, shall be distinct and separate counties, and shall be deemed and considered and shall be distinguished as such (as regards the county of Cork) by the names and descriptions of Cork county, East Riding, and Cork county, West Riding, and so in every other county which shall be hereafter divided by the names of the respective ridings in all warrants, processes, and proceedings relative to any matters determinable at any such general sessions respectively; and all such matters and causes shall be heard, tried, and determined, and all such proceedings shall be had and done, at such general sessions for each of such ridings respectively, for and in respect of matters arising within the said ridings respectively, as might have been heard, tried, determined, had, or done at any general or quarter session of the peace for the county of Cork, or such other counties as shall be hereafter divided, under any Act, or Acts, or

The two ridings of the county of Cork and other divided counties to be deemed distinct counties, &c.

law or laws in force immediately before the passing of this Act, for and in respect of matters arising within the said respective county at large; and no process, plea, or proceeding, nor any cause, matter, or thing whatever, shall be removed or removable, or transferred or transferrable, from any general session to be holden in any one of such ridings to any general session holden in any other of such ridings; and no decree or other order or proceeding at any general session to be holden in any of such ridings shall be of any validity, force, or effect, nor shall or may be executed or be enforced or put in execution, in any other of such ridings, otherwise than if the said respective ridings were two distinct and separate counties; and any and every person who shall be charged in any of such respective ridings with any offence cognizable at the general sessions, shall be held to bail, and shall be arraigned and tried, in that riding only in which the offence shall be charged or alleged or supposed to have been committed; and all justices of the peace and magistrates shall and they are hereby authorized and required to return any informations for offences taken before them, and returnable to the general sessions, to such sessions to be holden within the riding in which such offence shall be charged or alleged or supposed to have been committed.

The two assistant barristers to settle the times of holding the several alternate sessions, &c.

28. The several days to be from time to time appointed for commencing and holding the several alternate general sessions of the peace in the East and West Ridings of the said county of Cork, pursuant to the directions of this Act, shall be from time to time ascertained and settled by the two assistant barristers for the said ridings, in concert with each other, but so as to provide as far as possible that the said sessions shall not be holden at the same times as the assizes for the county; and so in every other county that shall be hereafter divided under this Act; and due notice of the times for holding such sessions shall be posted by the clerk of the peace on or before the last day of the preceding sessions for each of the said respective ridings.

Salaries of criers in the two ridings.

29. It shall and may be lawful for the grand jury of the county of Cork, and for the respective grand juries of the several counties which shall be hereafter divided under this Act, and such grand juries are hereby respectively required, to present, to be raised (as regards the county of Cork) off the respective portions of the said county of Cork constituting the East Riding and West Riding of the said county, and so in any other county which shall be so divided, two several sums not exceeding twenty-five pounds yearly, as regards the county of Cork, and not exceeding twenty pounds yearly, as regards any other county, to be paid by half-yearly payments, as and for the salary of each of the criers at sessions in such two ridings.

Divisions and sessional towns.

Existing divisions and

30. The several districts or divisions of the several counties and ridings, and the several towns and places within such districts or divisions respectively, appointed under and by virtue of the provisions of the several Acts heretofore in force and relating to

the jurisdiction of the civil bill courts, for the purpose of holding sessions therein, and wherein such sessions respectively have been heretofore held, shall be and shall continue to be the districts or divisions, and the towns and places respectively within such districts or divisions, for holding of sessions for hearing and determining causes by civil bill, and for transacting all such criminal and all such other business as may be determinable at any general or quarter sessions of the peace, until the same or any of them are or shall be altered in the manner herein-after provided,

sessional towns
to be continue
until altered.

31. It shall and may be lawful for the Lord Lieutenant, from time to time, by and with the consent and advice of the Privy Council, to alter the divisions and districts for the holding of sessions in any county or riding now existing or hereafter to exist, and to divide the several counties or any of them, or any riding or division of a county, including all counties of cities and counties of towns, boroughs, towns, and places, into as many divisions or districts as shall be thought proper or expedient for the purpose of more conveniently hearing and determining causes by civil bill, and of transacting all such criminal or all such other business as may be cognisable or determinable at any general or quarter sessions of the peace, and to appoint one or more convenient town or place, towns or places, in any such division or district, in which a civil bill court, and a court for transacting such criminal and other business as aforesaid, or a civil bill court only for hearing and determining causes by civil bill, shall be held, and from time to time to alter any such division or district, or any town and place, towns or places, within such division or district, or to discontinue any such town or place, as to the said Lord Lieutenant, with the advice aforesaid, shall seem fit; and every such division or district shall be distinguished by the name of such town or place; and every such sessions, and adjournment thereof, shall be good and effectual for the administration of criminal business and civil bill cases, and doing all other business that may by law be done at the general quarter sessions of the peace, or for hearing and determining causes by civil bill only, as the case may be; and in case of any town or place being so discontinued as aforesaid the same shall thereupon cease to be a town or place for the holding of sessions therein for any purpose whatsoever.

*Power to alter
divisions, &c.*

Lord Lieu-
tenant may
alter existing
divisions, and
appoint other
places for hold-
ing sessions.

32. It shall and may be lawful for the Lord Lieutenant, by and with the advice of the Privy Council, to direct that a general session of the peace and civil bill court, or a civil bill court only, shall be held any number of times not exceeding four times in every year in all or any of the towns or places now appointed or which may hereafter be appointed for holding sessions; and the Lord Lieutenant shall nominate and appoint the baronies or half baronies or parishes for which respectively such sessions shall be held.

*Times for hold-
ing sessions
and civil bill
courts.*

*Jurisdiction
in counties of
cities and
towns.*

Assistant barrister for East Riding to try causes in the city of Cork.

33. The assistant barrister appointed for the East Riding of the county of Cork shall hear and determine causes by civil bill in and for the county of the city of Cork, in cases where the defendant or one of the defendants in the cause shall reside within the county of the said city, at the several sessions of the peace, or adjournments thereof, for the county of Cork, to be held at Cork; and such assistant barrister shall at the same time hold such court as aforesaid for the hearing of such causes by civil bill for one division of the county of Cork; and the city of Cork shall be deemed and taken, for the purposes of this Act only, as a town within one division of the said East Riding of the county of Cork.

Assistant barristers of certain counties to have jurisdiction in certain counties of cities and towns.

34. The respective assistant barristers for the time being of the counties herein-after mentioned shall have jurisdiction by civil bill in and for the respective counties of cities, counties of towns, cities, and towns herein-after named, as fully as they respectively have in and for their respective counties; that is to say, the assistant barrister of the county of Waterford, in and for the county of the city of Waterford; the assistant barrister for the county of Limerick, in and for the county of the city of Limerick; the assistant barrister for the county of Kilkenny, in and for the county of the city of Kilkenny; the assistant barrister for the county of Antrim, in and for the county of the town of Carrickfergus; the assistant barrister for the county of Galway, in and for the county of the town of Galway; the assistant barrister for the county of Louth, in and for the county of the town of Drogheda; and each and every of the said several counties of cities and counties of towns shall be deemed and taken, for the purposes of this Act only, as a town within one division of the said several and respective counties at large.

*Jurisdiction
in ordinary
cases.*

Limit of jurisdiction of assistant barristers.

35. It shall and may be lawful for each and every assistant barrister to hear and determine by civil bill all disputes and differences between party and party for any sum, damages, or penalty, not exceeding [fifty] pounds sterling, in all cases whatsoever (slander, libel, breach of promise of marriage, and criminal conversation with a man's wife, only excepted), and for any ascertained and unpaid balance, not exceeding [fifty] pounds, of a partnership account, and also in all actions by civil bill under any Act or Acts of Parliament now in force in Ireland, and not hereby repealed, giving a remedy by civil bill in any particular cases, to the extent and pursuant to the provisions of the said Act or Acts respectively: Provided always, that the several assistant barristers may award interest in all cases where in equity interest ought to be decreed, so that the debt or damages and interest shall not together exceed the amount of the jurisdiction, according to the nature of the case.

[¹ Substituted for forty by 40 & 41 Vict. c. 56. s. 50.]

36. No cause of action in the whole amounting to a sum beyond such sum as is made recoverable by force of this Act shall be split or divided so as to be made the ground of two or more different actions, in order to bring such cases within the jurisdiction of this Act; but if any of the said assistant barristers shall find that the plaintiff in such cause shall have split his cause of action as aforesaid, he shall dismiss every such action, with the ordinary costs of a dismiss, without prejudice however to the plaintiff's proceeding to sue upon such cause of action in any other court, and in such other manner as he lawfully may: Provided also, that if such plaintiff shall be satisfied to recover such sum as the jurisdiction hereby conferred is made to extend to, in full of the whole of such his demand, then such assistant barrister shall and may, if such plaintiff shall satisfactorily prove his case, make and pronounce one decree for such plaintiff for such sum as shall in such case be demanded by the process, so as such sum does not exceed the jurisdiction under this Act, and the same shall be expressed in such decree to be and shall be in full discharge of the whole of such demand.

Cause of action not to be divided.

37. [*Recital of Irish Act, 15 Geo. 2. c. 8.*] The provisions relating to proceedings by civil bill contained in the said Act of the fifteenth year of King George the Second, shall extend and apply to proceedings by civil bill before such assistant barristers, subject to the provisions and regulations of this Act; and all original proceedings by civil bill provided by the said Act passed in the fifteenth year of King George the Second, shall be brought in the respective courts of the several assistant barristers, and shall not be brought before any judge or judges of assize on their respective circuits, or in their respective courts at Dublin, save by way of appeal, as herein-after provided in relation to appeals.

Recited Act as to civil bill proceedings to apply to civil bill proceedings before assistant barristers.

38. [*Recital.*] In all cases where the entire rent due and payable from the occupying tenant to his immediate landlord or landlords shall have been paid or in any manner satisfied, if, in consequence of the fraud, malfeasance, or neglect of such landlord or landlords to pay and satisfy the rent due and owing by him or them to any superior landlord or landlords, the lands in the hands of such occupying tenant shall be distrained for any such rent, or such occupying tenant shall have been compelled to pay any sum of money to any such superior landlord, to avoid a distress for rent due to such superior landlord, then and in every such case it shall be lawful for such occupying tenant to proceed against such his immediate landlord through whose default or neglect to make such payment the lands in the possession of such occupying tenant shall have been distrained or threatened to be distrained, to recover the amount of costs and damages by him sustained thereby, by civil bill before the assistant barrister of any county or riding where such lands

Remedy of occupying tenant against immediate landlord when lands are distrained for rent due from the latter to a superior landlord, &c.

shall be; and the amount of such costs and damages, when ascertained by the decree of such assistant barrister, and the amount of any costs and damages which may be ascertained by the judgment of any superior court, upon any action which may be brought for that purpose, may be tendered by the occupying tenant, or his or their representatives, in payment of so much of the subsequently growing and accruing rent as shall thereafter become due and payable to such his immediate landlord, and shall be accepted by such landlord in payment of the same, or shall be recovered by process of execution, as the said occupying tenant so aggrieved shall deem most advisable.

Recovery of
damages in
certain cases.

39. If on such trial by civil bill before the assistant barrister the complainant shall prove the facts of payment of rent by distress or otherwise to his immediate landlord, and of the subsequent seizure of his goods or stock under distress by a superior landlord, or his being compelled to pay any sum of money in or towards satisfaction of rent due to such superior landlord, to avoid any such distress, he shall be entitled to recover in damages, and shall so recover, upon such proof made of the facts herein-before mentioned, without any other or further proof of damages sustained, ten pounds in the hundred of the rent reserved and distrained for, in addition to the whole sum he shall have paid under such distress to the superior landlord, but shall not be precluded from entering upon proof of other more aggravated or special damage sustained, if he shall prefer such mode of proceeding for recovery of due and adequate compensation on such account.

[S. 40 *rep.* 16 & 17 *Vict. c.* 113. s. 53.].

Replevin.
—
Jurisdiction
in replevin
cases.

41. The respective assistant barristers shall and they are hereby authorized and empowered to hear and determine within their respective jurisdictions all actions of replevin relating to distresses for rent made by any landlord, or person claiming as such, where the annual rent reserved, for or in respect of which any distress shall have been made, shall not exceed fifty pounds, whether a greater annual rent may have been claimed by the landlord or not.

Appointment
of replevinders.

42. The sheriff for the time being for every county, county of a city, or county of a town in Ireland shall, within ten days after he shall be sworn in as sheriff, depute a sufficient number of persons in such county, county of a city, or county of a town, to act as replevinder or replevinders in cases of distresses for rent, so that there shall be at least one such replevinder in every town wherein general or quarter sessions of the peace are held; and for every refusal or neglect to appoint within ten days a replevinder, or a sufficient number of persons to act as replevinders, as aforesaid, and also for every month during which there shall not be one such replevinder in each such sessions town, every such sheriff shall forfeit and pay the sum of twenty pounds, to be recoverable by civil bill by any person who will

sue for the same; and such replevinder or replevinders so to be appointed as aforesaid shall have authority in the sheriff's name to grant replevins and make deliverance of all distresses in such manner or form as the sheriff may and ought to do, . . .

43. Where any party whose goods or chattels shall have been distrained for rent shall dispute the validity of the distress, and the annual amount of the rent in respect of which such distress shall or ought to have been made shall not exceed fifty pounds, it shall be lawful for such party to lodge with the clerk of the peace for the county, wherein such distress shall have been made a civil bill, . . . stating the particulars of the property distrained, and the place where, and the person or persons by whom or on whose behalf such distress was made, and requiring such person or persons to appear and answer such bill at the next general or quarter sessions of the peace for the division or district in which such distress was made, in case there shall be ten clear days between the day of lodging such civil bill and the first day of holding such sessions, and if not, then at the sessions for such division or district next after the expiration of ten days from the day of lodging such civil bill; and thereupon the said clerk of the peace shall issue an order . . . requiring the sheriff of the county to replevy the goods and chattels so distrained; and the sheriff to whom any such order shall be directed, or his replevinder, shall, and he is hereby required, upon good security being given to him by the bond of the person obtaining such order, and two or more responsible persons, not exceeding four in number, as sureties, in double the amount of the value of the property distrained, to execute such order, and make a correct and proper return in writing of the manner in which the same shall have been executed, or to signify the cause why the same has not been executed, to the court of the assistant barrister for the county or riding, within seven days next after such order shall have been delivered to him: Provided that the value of the property distrained shall be ascertained by the said sheriff or replevinder in like manner as the value of goods distrained is now ascertained by law by the said sheriff on taking security in replevins returnable to any of the superior courts at Dublin; . . .

Mode of proceeding by civil bill in replevin cases.

Execution of order to replevy on security being given by bond with sureties.

44. In every case where any of the persons who shall be proposed as sureties on behalf of any party whose goods or chattels shall have been distrained shall be rejected, the reason or ground of such rejection shall be stated in writing by the sheriff or replevinder so rejecting: Provided always, that nothing herein contained shall be deemed or taken to exonerate any sheriff from any liability by reason that he, or his replevinders, or any of them, shall have taken insufficient sureties in any such replevin.

If proposed sureties are rejected, the reason of the rejection shall be stated in writing.

Liability in case of insufficient sureties.

45. In every case where any goods distrained shall be replevied as aforesaid, a copy of the civil bill which shall have

Copy of civil bill to be served on defendant.

been lodged with the clerk of the peace as aforesaid shall be served, on the part of the plaintiff in such civil bill, upon every person named as defendant therein, in the same manner as civil bills for recovery of debts are hereby required to be served: Provided always, that in case the party on whose behalf such distress was made shall not reside within the jurisdiction of such assistant barrister, service of such civil bill on the person who made the distress for him, or on any bailiff who shall be in charge of the goods so distrained, shall be deemed good service on such party; and such party, although not residing within the county or riding, shall, for the purposes of this Act, be deemed and taken to be within the jurisdiction of the assistant barrister of the county or riding in which the distress was made.

Assistant barrister to hear and determine the civil bill.

46. The assistant barrister shall in every such case of replevin hear and determine the civil bill, and, if it shall appear to him that such distress was legally made, and that the annual rent in respect of which such distress was made did not exceed fifty pounds, shall ascertain whether any and what rent was due to the defendant at the time of making such distress; and if it shall appear that any sum was due for rent, and that no tender of the sum so due was made before the said civil bill was lodged, it shall be lawful for such assistant barrister, and he is hereby required, to ascertain the sum due for rent, and to make a decree for payment of the same, and the costs for defending such civil bill, and of such distress; and such sum and costs shall and may be levied by virtue of such decree; . . . and in case it shall appear that no rent was due at the time of such distress, or that a tender was made of the amount due, together with reasonable costs of distress, previous to the lodging of such civil bill, or that such distress was illegally made, it shall be lawful for the assistant barrister to direct the bond which shall have been so given as aforesaid to be delivered up to the party complaining of the distress, and also to make a decree, . . . for payment by the defendant to such party of such damages as the court may think fit, and, if necessary, to direct that such damages and costs shall be set off against or deducted from any rent then due or thereafter to accrue due by the party complaining, and to make a decree accordingly.

[S. 47 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

Bond to be assigned if plaintiff do not prosecute suit, &c.

48. In case the plaintiff in replevin shall not cause said civil bill to be served as herein-before mentioned, or shall not duly appear at the sessions, and there prosecute his civil bill, or, having appeared, his civil bill shall be dismissed because the annual rent in respect of which the distress was made exceeded fifty pounds, or by reason of his disputing that the person by or on whose behalf the distress was made was landlord as aforesaid and in every case where he shall not obtain a decree therein, the assistant barrister shall, at the request of any party named as a defendant in such civil bill, make an order that the bond so

directed to be given to the sheriff as aforesaid shall be assigned to the defendant, or, if more than one, to such of the defendants as he shall think fit; and such bond shall be assigned by the sheriff or his representative to such person or persons as the assistant barrister shall direct; and such assignment shall be by an indorsement, signed by the sheriff or his representative, on the bond, to the effect following, that is to say,

' I, A.B., sheriff of _____, do hereby assign the within
' bond to _____, his executors or administrators, this
' _____ day of _____.'

Which indorsement shall not require any stamp; and such bond shall be and stand as a security for the full amount of the value of the goods distrained, and the costs of the proceedings in relation to the distress and of the proceedings on such civil bill and on such bond; and the assignee of such bond shall be at liberty to sue in his own name, upon such bond, all or any one or more of the obligors thereof in the court of the assistant barrister within whose jurisdiction any one of such obligors shall reside, without regard to the amount of the penalty of such bond; and it shall be lawful for the assistant barrister to order that the goods distrained shall be returned to the party who distrained the same; and in every such case, where the goods distrained shall be actually returned to the party who distrained the same, and the costs of the proceedings paid, no further proceeding shall be had on the bond which shall have been given as aforesaid; and all such goods, if returned or recovered under any such decree as aforesaid, may be sold for the recovery of the rent due and expences, not sooner than after the expiration of the second day after the day of the return thereof.

Return and
sale of goods.

49. Where the amount of the assets of any deceased person shall not exceed in value the sum of two hundred pounds, it shall and may be lawful for any legatee of any specific chattel, or for any legatee of any pecuniary legacy payable out of the assets of any such deceased person, or for any residuary legatee, or for any person or persons entitled as next of kin of any such deceased person, or the executors, administrators, or assigns of such legatee or next of kin, and they and each of them are and is hereby authorized and empowered, to proceed by civil bill against the executor or administrator of such deceased person in the county or riding in which such executor or administrator, or one of such executors or administrators, in case there shall be more than one, shall be resident, for the recovery of such legacies or distributive shares, at any time after the expiration of one year from the decease of the testator or intestate, but not sooner; . . . and it shall and may be lawful for such assistant barrister, upon due proof that the defendant had received, or without wilful default might have received, assets of the testator or intestate sufficient, and liable, after payment of all just debts, for the satisfaction in a due course of administration, either in the whole or in part, of the plaintiff's demand, to

Legacies.

Legacies and distributive shares payable out of assets of any deceased person (when assets do not exceed 200*l.*) may be recovered by civil bill.

make a decree for payment of such legacy . . . , or to make a decree for payment of the distributive portion rateably and proportionably with other legatees standing in the same situation, or other next of kin respectively, as the case may be, . . . and in case the plaintiff shall establish his right to any specific chattel, it shall and may be lawful for such assistant barrister to make an order for delivery of the same to the party entitled thereto, or to make a decree for payment of the value thereof, and costs of suit; and in case the plaintiff shall establish his right as residuary legatee, it shall and may be lawful for such assistant barrister to make an order for the delivery, transfer, or payment of such residuary estate and effects to the party decreed entitled thereto.

Executors and administrators to lodge accounts, if required.

50. Where the property or assets of any deceased person shall not exceed in value the sum of two hundred pounds, every executor or administrator shall, if thereunto required by notice in writing by any legatee, next of kin, creditor, or other person interested therein, at any time after twelve months from the decease of the testator or intestate, lodge with the clerk of the peace of the county wherein such testator or intestate resided at the time of his death, and, if he shall reside in a county different from that in which such testator or intestate resided, also in the county wherein such executor or administrator resides, a schedule or account, setting forth the particulars of the property or assets which the testator or intestate died possessed of or entitled to, and the amount, produce, and value of the same respectively, and the amounts and particulars of the debts due by the said testator or intestate, and the amounts and particulars of the debts, legacies, and funeral and testamentary expences of the testator or intestate paid by or on account of any such executor or administrator, and showing the balance applicable to the purposes of the will of the said testator, or distributable amongst the next of kin of the said intestate, or the property or chattels then undisposed of; and every such schedule or account shall be signed by such executor or administrator, and verified by the oath or affirmation (as the case may be) of the executor or administrator to be sworn or made before the clerk of the peace for the county wherein such executor or administrator resides, and which oath or affirmation the said clerk of the peace is hereby authorized and required to administer; and such schedules or accounts shall be preserved and kept by the clerks of the peace amongst the records of their respective counties or ridings, and shall be deemed and taken as evidence against the said executor or administrator of the several matters therein contained; and in case any such executor or administrator shall neglect to lodge such schedule or schedules as aforesaid within the time herein-before specified, he shall forfeit any sum not exceeding twenty pounds, to be recoverable by civil bill before the assistant barrister of the county wherein such executor shall reside, by any person so requiring such account.

51. In all proceedings by civil bill by any legatee or next of kin for recovery of any legacy or distributive share as aforesaid, it shall and may be lawful for the plaintiff as such legatee or next of kin in such civil bill as aforesaid to examine such executor or administrator on oath in open court, if the court shall deem it necessary, in order to obtain a discovery of the estate and effects of the testator or intestate at the time of his or her decease, and the value thereof, and of his or her debts, funeral and testamentary expenses, and to obtain an admission that the defendant is the executor or administrator (as the case may be), and to ascertain all such facts of which a party suing as legatee or as next of kin in a court of equity is entitled to a discovery.

Examination
of executors
and adminis-
trators.

52. Every executor or administrator may be compelled by summons, to be issued and signed in the manner herein-after prescribed for witnesses summoned to give evidence in civil bill courts, to attend and produce the probate (if any) of the will of the testator or the letters of administration of the testator or intestate (as the case may be), and submit to be examined on oath in open court touching the matters aforesaid on the trial of any such civil bill in any division where such cause shall be heard; and every executor or administrator who shall disobey any such summons shall forfeit and pay, to the party at whose request such summons was issued, the sum of ten pounds, as a penalty; but such fine or penalty may be reduced or wholly remitted, if the assistant barrister before whom he shall have been required to attend shall, upon good and sufficient cause being shown, think fit to reduce or remit the same.

Executors and
administrators
to produce
probate of will
and letters of
administration,
and to submit
to be examined
on oath on
trial of civil
bill.

53. It shall be lawful for any assistant barrister, in any civil bill proceeding for a legacy or a distributive share of the property or assets of a testator or an intestate, to order the party suing to give notice, either by advertisement or otherwise, requiring persons having claims on the property or assets of the deceased to produce and verify such claims; and no such advertisement shall be charged with or liable to any duty; and all costs relating to such notice shall be borne and paid in such manner and by such parties as such assistant barrister shall order or direct; and the assistant barrister may, if he shall think fit to direct such notice to be given, adjourn the hearing of the civil bill to some future sessions, and from time to time as occasion may require, so as to allow sufficient time for publishing or giving such notice.

Advertise-
ments for
claims on the
property of the
deceased.

54. In any such action or proceeding the assistant barrister may, if he shall think fit, order money to be paid into the Bank of Ireland, or such branch bank of the Bank of Ireland as he shall direct, in the name of such clerk of the peace, to the credit of the cause in question; and such money shall be applied and disposed of according to the order and directions of the assistant barrister; and all payments of such monies shall vest in the

Order for pay-
ment of money
into the Bank
of Ireland.

clerk of the peace for the time being, and shall be made upon an order in writing under the hand of the clerk of the peace, countersigned by the assistant barrister, which order shall be a good and sufficient warrant to all intents and purposes.

Recovery of legacies and arrears of annuities not exceeding 20*l.* charged on real estate.

55. It shall and may be lawful for any legatee of any pecuniary legacy not exceeding twenty pounds charged upon or payable out of any real estate or any chattel real, or for any person to whom arrears not exceeding twenty pounds are due in respect of any rent-charge or annuity charged upon or payable out of any real estate or chattel real, to proceed by civil bill against the person who shall be entitled to the real estate or chattel real charged with such legacy or arrears; and it shall and may be lawful for the assistant barrister, upon due proof by the plaintiff that such real estate or chattel real is liable to such legacy or arrears, unless the owner thereof shall satisfy the said assistant barrister that he has not received therefrom, for his own use and benefit, a sum equal to the amount of the legacy or sum sought to be recovered, and which was properly applicable to the payment thereof, or that there is personal property liable to the payment thereof available for that purpose, to decree the payment of such legacy or arrears by the owner of such real estate or chattel real.

Recovery of legacies and arrears of annuities not exceeding 20*l.* payable out of personal estate.

56. It shall and may be lawful for any legatee of any pecuniary legacy not exceeding twenty pounds, payable out of any personal estate, or for any person to whom arrears not exceeding twenty pounds are due in respect of any annuity payable out of any personal estate, (whatever may be the amount of such personal estate,) to proceed by civil bill against the executor or administrator of such personal estate; and it shall and may be lawful for the assistant barrister, upon due proof by the plaintiff that such personal estate is liable to such legacy or arrears, and that the executor or administrator thereof has received therefrom sufficient assets applicable to the payment thereof, and available for that purpose, to decree the payment by such executor or administrator of such legacy or arrears, or of such part thereof as such available assets will extend to pay.

Executors de son tort to be liable.

57. Any person rendering himself an executor de son tort shall be liable to be sued by civil bill, as if he were a rightful executor, in the manner and to the extent herein mentioned respecting rightful executors; provided that such executor de son tort shall not be liable beyond the amount of the assets actually received by him.

Parties.

Where persons jointly liable do not all reside within

58. Where any person shall have any demand recoverable under this Act against two or more persons jointly liable, it shall and may be lawful for him to sue by civil bill all such persons so jointly liable who shall reside within the county or riding in which such civil bill shall be brought, and a decree may be made

and execution issued against the person or persons so sued, notwithstanding that any other or others jointly liable may reside out of the jurisdiction of such assistant barrister.

the jurisdiction, those who do so reside may be sued.

59. If any assistant barrister shall have any cause of action, in replevin or otherwise, against any person residing within the county or riding in which he shall act as such assistant barrister, or if any person shall have any cause of action, in replevin or otherwise, against an assistant barrister who shall reside within the county or riding in which he shall act as such assistant barrister, then and in every such case such assistant barrister shall sue or may be sued in the civil bill court of any of the next adjoining counties, and nearest to the residence of the defendant, or any of the defendants if more than one; and service of the process in the county or riding in which the defendant shall reside, made by any process officer of such county, or by any process officer of the county in which the process is intended to be heard, shall be deemed good service on such defendant to appear before the assistant barrister at the sessions of such adjoining county, who shall have jurisdiction to hear and determine such civil bill; and the decree or dismiss of such last-mentioned assistant barrister shall have full force and effect in and shall be executed by the sheriff or sheriff's bailiff of the county in which the party against whom the said decree or dismiss has been made shall reside: Provided always, that in every such case the reason for bringing such civil bill in such next adjoining county shall be stated upon the civil bill process: Provided also, that if the service of such process shall be made by any process officer of the county in which the defendant resides, such service may be verified by an affidavit of service by him made before any justice of the peace of the county in which such service was effected, who is hereby authorized and required to take the same; and for every such service and affidavit such process officer shall be entitled to a fee of two shillings and sixpence, and no more.

Assistant barrister may sue and be sued in adjoining county.

60. . . . it shall not be necessary that any civil bill process shall be signed by any attorney, or by the clerk of the peace, or by the assistant barrister, or any other officer, but it shall be sufficient if the same be signed by the plaintiff or any one or more of the plaintiffs therein mentioned, or by any other person on behalf of the said plaintiff or plaintiffs: Provided always, that in all ejectment cases the civil bill process shall be signed by an attorney, who shall set forth his place of residence thereon.

Process.

Form of civil bill process.

61. Every civil bill process, and decree or dismiss had thereon, under this Act, shall contain the addition and last known place of residence of the parties, plaintiffs and defendants; and in case of the omission thereof any such civil bill, unless amended under the provisions of this Act, or decree or dismiss, shall be null and void to all intents and purposes whatsoever: Provided

Civil bills, decrees, and dismisses to contain addition and residence of parties, &c.

always, that it shall be sufficient to describe corporate bodies or joint stock companies, whether plaintiffs or defendants, by the proper and respective titles in which they are entitled to sue or be sued, without inserting any addition or place of residence; and where the Attorney-General shall be a party on behalf of the Crown, it shall not be necessary to set forth his addition or residence.

Stamps on
forms of civil
bill process
and copies.

62. [*Recital.*] The forms next herein-after mentioned hereby provided to be used shall be severally subject to the following stamp duties payable to her Majesty; that is to say,

	s.	d.
Every original civil bill ejectment process	2	6
Every civil bill for redemption	2	6
Every original civil bill process in replevin	2	6
Every original process for the recovery of any legacy or distributive share of assets	2	6
Every other original civil bill	0	6
Every copy thereof served	0	6
Every notice of renewal	0	6
Every copy thereof served	0	6
Every recognizance of appeal	1	0

And in the event of the plaintiff's obtaining a decree the amount of such stamps shall be charged against the defendant or defendants as part of the cost of his proceeding; and printed forms, with such stamp on each as aforesaid, shall be issued from the office of the Commissioners of Inland Revenue to the several distributors of stamps in Ireland, under such regulations as the said commissioners shall make for the sale of the same by the several sub-distributors of stamps or by any other persons; and any such sub-distributor of stamps, or other person, who shall, without express authority from the said commissioners for such purpose, demand or receive for any one of such forms, from any person whatever, any greater sum of money than the amount of the stamp duty on such form, or who shall in any other way offend against such regulations as aforesaid, or against any other regulations made or to be made by the said commissioners, and which shall be from time to time in force as to any other stamps, shall be liable to the same forfeitures and punishments as are by any Act or Acts provided for any like offence in respect to any other stamps issued by the said commissioners: Provided always, that if it shall appear to the court upon the hearing of any civil bill that any original civil bill, process or notice of renewal or any copy thereof served upon any defendant shall not have been duly stamped, or had been previously used as a process, notice, or copy thereof in any other suit, the several and respective assistant barristers are hereby required forthwith to dismiss the said civil bill, and to order and direct that the original process, notice, or copy thereof so wanting the said stamp required

by this Act shall be held and impounded by the clerk of the peace.

63. If any sub-distributor of stamps or other person whatsoever shall (without express authority for such purpose from the said commissioners), by himself, or any other for his use or profit, ask, demand, receive, or take any greater sum of money or other thing for any one such printed form than the sum which is hereby made chargeable thereon to her Majesty as and for the stamp duty on such printed form, and so in proportion for any greater number of such printed forms, such person so asking, demanding, receiving, or taking, or the person for whose use and benefit such greater sum of money or other thing shall be asked, demanded, received, or taken, by the authority of or consent, direction or approbation of such person for whose use and benefit the same shall be asked, demanded, received, or taken, shall forfeit and pay to the person injured the sum of five pounds, to be recovered by civil bill to be brought by such person within twelve months from the time of such offence committed: Provided that the plaintiff in such civil bill may, at his election, sue either the person who shall have so asked, demanded, received, or taken such greater sum or other thing, or the person for whose use or benefit such greater sum or other thing was so as aforesaid asked, demanded, received, or taken, but not both of them.

Penalty on distributors of stamps or others taking more than stamp duty chargeable on printed forms.

64. The said stamp duties by this Act imposed and granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the Commissioners of Inland Revenue for the time being; and all the powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties, contained in or imposed by the several Acts of Parliament relating to any duties of the same kind or description in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the stamp duties by this Act granted or imposed, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted with reference to the said stamp duties by this Act granted or imposed.

Duties hereby granted to be stamp duties under management of Commissioners of Inland Revenue.

65. Service of any civil bill process on the defendant shall be effected, either by personal service of the civil bill process, or by leaving a copy thereof at the defendant's house or place of residence, or at his office, warehouse, counting-house, shop, factory, or place of business, with the wife, child, father, mother, brother, sister, or any other relation of the defendant, or his wife, or with any servant or clerk of the defendant, (the person with whom such copy shall be left being of the age of sixteen years or upwards) . . . ; and no decree, other than a decree in ejectment or replevin, shall be made by any assistant barrister unless the process in such cause shall, by the oath of

Service of process.

Service of process.

the process officer in open court before the said assistant barrister, or by the production of the books of the process officer in the cases herein-before provided, be satisfactorily proved to have been duly served, and unless it shall be proved that the house or place of residence in which the defendant, or, in the case of more than one defendant, in which one of the defendants, shall at the time of such service have usually resided, or that the office, warehouse, counting-house, shop, factory, or place of business of the defendant or one of the defendants is situate within such division of the county where the said court is held at which the said defendant or the said defendants shall be required to appear.

As to service
of process on
lodgers.

66. Where any defendant in any civil bill shall be a lodger in any house in which his landlord shall also reside, service of any civil bill process within such dwelling house upon such landlord so residing, or upon the wife, child, or servant, being of the age of sixteen years or upwards, of such landlord, . . . shall be deemed good service of such civil bill process upon the said defendant: Provided that it shall appear to the satisfaction of such assistant barrister that due diligence had been used to effect personal service upon the defendant, or service upon his wife.

Service of
process on
relative or
servant of de-
fendant out-
side his
dwelling house.

67. If the wife, child, father, mother, brother, sister, or other relative of the defendant in any civil bill process, or of his wife, or any servant of the defendant, who respectively usually resides with the said defendant, shall be outside the dwelling house or place of residence of the defendant, but within reasonable distance, it shall and may be lawful for the process officer to deliver to the said wife, child, father, mother, brother, sister, or other relative of the said defendant, or of his wife, being of the age of sixteen years or upwards, so usually residing with the said defendant, or to such servant of the said defendant, a copy of the said process for the said defendant, outside the dwelling house or place of residence of the said defendant, and within such distance as aforesaid from the same; and such service of process shall be deemed as good and effectual to all intents and purposes as if service on any of said parties of said copy of said process had been effected within the said dwelling house or place of residence: Provided always, that at the time of such service personal service on the defendant, or service on any person within such dwelling house, lodging, or place of residence, could not have been effected.

Time for ser-
vice of pro-
cesses.

68. The civil bill process shall, in all cases of ejectment, and in all cases for the recovery of legacies, and distributive shares of assets, and in all cases where the demand shall exceed twenty pounds, be served fifteen clear days before the first day of the sessions; and in all other cases every civil bill process shall be served six clear days before the first day of the sessions,

unless otherwise provided by any Act or Acts giving the jurisdiction in the particular case, and not hereby repealed, and then so as required by such Act or Acts; and in no case whatsoever shall any civil bill process be served on Sunday, Good Friday, or Christmas Day, and service upon any of said days shall be absolutely null and void.

69. No defendant shall be liable to be sued or proceeded against by civil bill under this Act or obliged to appear in any cause to be heard and determined at any session or adjournment thereof to be held out of the division in which he usually resides, unless there shall be more than one defendant in such cause, in which case the plaintiff shall be at liberty to bring his civil bill in such division of the county where any one of the defendants shall so reside: Provided always, that if any person shall have and occupy any house, warehouse, counting-house, shop, factory, or office for the sale of goods, or for carrying on any business, in any county, he shall be deemed to have a residence within such county for the purposes of this Act.

Defendant not to be sued out of the division in which he resides, except as herein specified.

70. In any case where it shall appear to the assistant barrister, by examination on oath in open court, that any officer appointed to serve the process of the said civil bill court has been prevented by forcible resistance, or by reasonable apprehension of personal injury, from effecting service of any process of the said court, it shall and may be lawful for such assistant barrister in every such case to direct, by an order to be signed by him, and entered in the book of the clerk of the peace, that posting a copy of a civil bill process on the court house in which the court may be then sitting, and on the usual place for posting notices in the nearest market town to the residence of the defendant named in such process, or of one of the defendants if there be more than one, at least twenty-one days before the first day of the next sessions to be holden for the same division of the county or riding, shall be deemed good service of such process; and at foot of every such copy shall be affixed a notice that the same is so posted by order of the said assistant barrister, and that such process will be held good service thereof; and upon its being proved on oath to the satisfaction of the assistant barrister at the next sessions holden for the same division that such copy and notice have been so duly posted, it shall be lawful for such assistant barrister, and he is hereby authorized and required, to proceed to hear and determine such civil bill in all respects as if the process thereon had been personally served on the defendant or defendants named therein.

Service in case of forcible resistance.

[*Ss. 71-78 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Ejectments.

79. The several assistant barristers, and the recorder of Dub'in, and the several recorders herein mentioned, shall and they are hereby authorized and empowered to hear and determine within their respective jurisdictions all disputes and

Power to determine disputes respecting possession of land in certain cases.

differences respecting the possession of any lands, tenements or hereditaments held under any grant, lease, or other instrument for any term or interest the duration or extent whereof when originally granted or created did not or shall not exceed three lives, without any provision for the renewal thereof, or a term of sixty-one years determinable on three lives, or three lives with a concurrent term of years not exceeding sixty-one years, or a term of sixty-one years absolute, and the yearly rent reserved or payable in respect whereof under such grant, lease, or other instrument shall not exceed [thirty] pounds, and in respect of which no fine exceeding [thirty] pounds shall appear on the face of such grant, lease, or other instrument to have been paid on the granting or execution of such grant, lease, or other instrument, or held for any term or tenancy from year to year at a rent not exceeding such amount as aforesaid; and every person claiming such possession may proceed by civil bill in the court for the division of the county or riding wherein such lands, tenements, or hereditaments or any part thereof shall be situate, for recovery of such possession.

[S. 80 (*disputes as to possession of lands held under acknowledgments according to Form (11) in Schedule (C.) to this Act*) rep. 23 & 24 Vict. c. 154. s. 104.]

Service, &c. of
bill in such
cases.

81.^[2] Every civil bill process brought for the recovery of the possession of any lands, tenements, or hereditaments held in the manner specified in either of the two immediately preceding provisions, shall be duly served upon all and every person or persons who shall be in the actual possession of the lands, tenements, or other hereditaments specified in and claimed by any such civil bill, and also such other person or persons (if any) as shall be interested in the same or in any part thereof under any registered conveyance; and if there be not any person in the actual possession of such lands, tenements, or hereditaments, then the affixing of such civil bill to or upon some conspicuous part of the premises so claimed, and upon the door or gate or one of the piers of the door or gate of the parish church (if there shall be any in the parish), and also upon the door or gate or upon one of the piers of the door or gate of the Roman Catholic chapel (if there shall be any in the parish wherein the said premises shall be situated), shall be and be deemed to be good and sufficient service of such civil bill; and it shall be lawful for the assistant barrister to make an order or decree for the delivering up of possession of such lands, tenements, or hereditaments to the party entitled thereto.

Ejectment
against ser-
vants, care-

82. [*Recital.*] If any person who shall have been heretofore, or shall hereafter be, by the owner of any land, tenements, or

[¹ Substituted for twenty by 40 & 41 Vict. c. 56. s. 53.]

[² Sections 81, 84-87, 92, 94, 96 are rep., so far as they relate to proceedings between landlord and tenant, and to persons in occupation who shall have signed acknowledgments pursuant to this Act, 23 & 24 Vict. c. 154. s. 104.]

hereditaments, or by his agent, receiver, or bailiff, put or let into occupation or possession thereof by permission, or as servant or caretaker, or as tenant strictly at will or by sufferance, shall refuse or omit to quit and deliver up possession of the said premises, on demand made by the owner thereof, or his known agent or bailiff, it shall and may be lawful for such owner, his heirs, executors, administrators, or assigns (after such demand and refusal or omission to deliver up the same), to proceed by civil bill ejectment process for the recovery of the possession thereof against such person or persons so in occupation or possession, or any person or persons being or claiming to be in occupation or possession by, through, or under such person or persons; and it shall and may be lawful for the respective assistant barrister or recorder to hear and determine such civil bill in the same or like manner as he is hereby empowered in cases of ejectment against over-holding tenants, and to make a decree or dismiss thereon: Provided always, that nothing in this provision contained shall be deemed to affect or prejudice any right or remedy which any such owner of land, his heirs, executors, administrators, or assigns, might have used or exercised in such case for taking or obtaining the actual possession of such premises, if this Act had not been passed.

[S. 83 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

84.[¹] If any lands, tenements, or hereditaments, touching which any proceeding by civil bill shall be had in pursuance of this Act, shall be situate in two or more counties, such proceeding shall be in any one of such counties; and the sheriffs of the respective counties in which any part of such tenement or premises shall be, and in which such proceedings shall not be had, shall, so far as relates to the portion of such tenement or premises within their respective bailiwicks, execute such decree as shall be made on such civil bill, upon delivery to him or them of a copy thereof, signed by the assistant barrister or recorder who shall have made such decree: Provided always, that if any tenement shall be situate in the whole or in part within the county of any city or town which is a county of itself except the county of the city of Dublin, the assistant barrister of the county at large having jurisdiction for other purposes within such county of a city or town, and the justices of the peace for such county at large, shall have the same jurisdiction and exercise the same powers with respect to such tenement as if the same had been situate in the county at large, anything in this Act or any law or usage to the contrary notwithstanding: Provided also, that in all cases where it may happen that the assistant barrister, or the said recorder, as the case may be, shall be the landlord, lessor, or owner, or shall claim to be entitled to

takers, and tenants at will.

Where lands in question are situate in two or more counties, proceedings shall be in any one of them, &c.

Assistant barrister, &c. to have jurisdiction in a city or town which is a county of itself.

In case assistant barrister, &c. sues for lands

[¹ See note to s. 81.]

situate in part in his own jurisdiction, proceedings shall be had in the county without his jurisdiction.

the possession of any lands, tenements, or hereditaments situate in two or more counties, and where any part of the same shall be situate within his respective jurisdiction, and that he shall be desirous to institute proceedings in respect of the said tenements or premises under or by virtue of this Act, such proceedings shall be in the county or place without the jurisdiction of such assistant barrister, or recorder, where the other part of such lands, tenements, or premises may still be situate.

85.[¹] And whereas it is reasonable, in cases where it may happen that any assistant barrister, or the recorder, is the landlord or lessor of or claims to be entitled to the possession of any lands or tenement within his own jurisdiction, that provision should be made for extending to such assistant barrister or recorder the benefits of this Act: Be it therefore enacted, that in every such case it shall and may be lawful for such assistant barrister, or recorder to proceed by way of civil bill respecting such lands or tenements before any assistant barrister of any of the counties next adjoining to that wherein such lands or tenements shall be so situate, in the same manner as any other landlord or claimant might proceed respecting any other tenement before such assistant barrister; and an appeal shall lie from any decree of such assistant barrister upon such civil bill to the judge at nisi prius, or the next going judge of assize, as the case may be, in the same manner, and subject to the same restrictions, conditions, and limitations, as are applicable to other civil bill decrees and dismisses, as herein provided.

Assistant barrister, &c. may sue for lands wholly in his own jurisdiction before the assistant barrister of an adjoining county.

Service of notices, &c. where defendant in ejectment does not reside on the lands.

86.[¹] Whenever it shall happen that the defendant in any ejectment proceeding brought for the recovery of any lands, tenements, or hereditaments under the provisions of this Act shall not be resident on such lands, tenements, or hereditaments, the delivery of any notice or process to such defendant in person, or, at the dwelling house or place of residence of such defendant, to his wife, or to any child or servant of such defendant, or to the father, mother, brother, sister, or other relation of the said defendant or of his wife residing with the said defendant, and being of the age of sixteen years or upwards, shall in all cases be deemed good and sufficient service of any such notice or process, although such defendant or defendants shall not be resident, or his or their dwelling house or houses or place of residence shall not be situate, on the lands or tenements comprised in such ejectment, or to which such notice or process shall relate, any law, usage, or custom to the contrary in anywise notwithstanding: Provided always, that if a defendant shall have gone out of Ireland, and shall have left his wife and family residing in the dwelling house usually occupied by him while in Ireland, service of the process in ejectment upon his

[¹ See note to s. 81.]

wife or any member of his family, being of the age aforesaid, at such dwelling house, shall be deemed and taken as good service of the process upon the defendant, so as to enable the landlord or owner to obtain a decree for the possession of said lands.

87.^[1] If any lands or tenements, or any part of any lands or tenements, for which any proceeding by civil bill ejectment shall be had under the authority of this Act, shall be in any extra-parochial place, and there shall be any chapel or place of public worship in such extra-parochial place, all processes and copies of certificates before required to be fixed on the door or gate or on the pier of the door or gate of a parish church or Roman Catholic chapel in places not extra-parochial shall be fixed on the door or gate or on one of the piers of the door or gate of such church, chapel, or place of public worship in such extra-parochial place; and if there shall be more than one such church, chapel, or place of worship, then such affixing upon any one, in manner aforesaid, shall be sufficient.

Fixing of processes, &c. in ejectment in case of lands in extra-parochial places.

[*S. 88 rep. 23 & 24 Vict. c. 154. s. 104.*]

89. In all cases of ejectment by civil bill, as between landlord and tenant, except where the proceedings shall be grounded on nonpayment of rent, the assistant barrister or recorder shall, if required, sign two copies of every decree which shall be made, and also a memorial thereof, for the purpose of registry in manner herein after mentioned; and his affixing his signature to one of the said copies shall be witnessed by some person present at the time of such signature; and it shall and may be lawful for the landlord or lessor, if he thinks proper, at any time between the termination of the assizes for the county then next ensuing and the commencement of the assizes thereafter next following, to register one copy of the said decree in the office for the registry of deeds and wills in Ireland, by lodging a memorial, and proving the perfection of the same, in like manner as is now provided by law for the registering of deeds; and from and after the registry of the said decree it shall have the further effect of a conveyance to the said landlord or lessor of any interest which the tenant, or any person claiming under him, may or might have in and to the said lands and premises, freed and discharged from all leases, contracts, mortgages, debts, charges, or incumbrances, which the said tenant, or any person claiming under him, may have charged, made, or created thereon.

Assistant barrister to sign two copies of ejectment decrees and memorial thereof for registry.

Effect of registering decree.

90. If any person in the said office for the registry of deeds in Ireland shall demand or take any greater fee, gratuity, or sum of money, for or on occasion of the registry of any of the said decrees, than he is now by law entitled to for the registry of a

Penalty for demanding a greater fee for the registry of a decree than for the registry of a deed.

[¹ See note to s. 81.]

deed, he shall forfeit the sum of one hundred pounds for every such offence, to be recovered in an action of debt by any person suing for the same.

Clerks of the peace, &c. to keep books in which decrees in ejectment shall be entered.

91. The clerk of the peace of each county . . . shall enter in a book to be kept for that purpose all decrees in ejectment which shall be made at any sessions of the peace of such county or county of a city; and which entries shall specify the names of the plaintiffs and defendants, and the tenements recovered, as the same shall be specified in the civil bills concerning the same; which book every person shall have liberty to inspect and examine, paying to the clerk of the peace . . . for such inspection and examination the fee of one shilling and eightpence; and the said clerk of the peace, . . . within three days next after the close of each session of the peace, shall post on the outside of the door of the court house where such sessions were held a correct list of such causes in which any tenements shall have been recovered at such sessions under this Act, which list shall specify the parties' names, and the description of the tenements as set forth in the civil bill upon which the same shall have been recovered, upon pain of forfeiting for every such omission the sum of ten pounds, to be recovered by civil bill by any person suing for the same: Provided always, that the omission to make such entry or posting shall not invalidate, or in any way affect, any decree, or the recovery of the possession of any lands or premises.

Taxation of costs in ejectment.

92.^[1] It shall and may be lawful for the assistant barrister, or recorder, and they are hereby respectively required, in cases of civil bill ejectment, on the request of either party or his attorney, to tax the costs between party and party, and to include the same in the decree or dismiss, as the case may be, and further, on the like request, to tax costs between attorney and client upon any proceedings that shall have been taken, or may hereafter be taken, for the recovery of the possession of lands or tenements under the provisions of this Act; and no clerk of the peace shall have any power to tax the same, and no fee shall be payable for such taxation; and no attorney shall be entitled to recover any sum against any client for or by reason of any proceedings in ejectment under this Act, or any preparation for such proceedings, unless the same shall have been previously taxed in manner herein provided; and it shall and may be lawful for the assistant barrister or recorder, and they are hereby respectively required, to examine upon oath (which oath they are hereby respectively authorized to administer) the attorney seeking to charge such client, as to all matters and things which it may appear to the said assistant barrister or recorder necessary to ascertain for the due taxation of the said

[¹ See note to s. 81.]

costs: Provided always, that no sum shall be allowed to the plaintiff's attorney for any searches for incumbrances affecting the lands and tenements, unless he shall have received directions in writing from the plaintiff or his land agent authorizing him to make the same.

[*S. 93 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

94.^[1] It shall and may be lawful for the assistant barrister or recorder, upon the hearing of any ejectment, where there shall be more than one defendant, upon his pronouncing a decree, to order and direct that the costs of such ejectment proceedings shall be paid by and recovered from one or more of such defendants by name, and not from the other or others of them.

Assistant barrister may order costs to be paid by one or more of the defendants in ejectment.

[*S. 95 rep. 27 & 28 Vict. c. 99. s. 60.*]

96.^[1] The title to lands, tenements, and hereditaments (except in the cases herein-before mentioned) shall not be drawn into question in any proceeding by civil bill under this Act; and every defendant in every civil bill shall be entitled, on the hearing of such civil bill, to every defence which he may have at law or in equity.

Title to lands, &c. not to be drawn into question.

97. The courts held by the recorder of Dublin, or assistant barristers, and every of them, for hearing and determining causes by civil-bill as aforesaid, shall be respectively courts of record.

Regulation of the courts.

Courts to be courts of record.

98. The court for the hearing of civil bills, and of quarter sessions, shall, after the first day of every sessions, commence its sittings in the months of December and January, not earlier than nine nor later than ten of the clock in the forenoon, and in other months not later than nine of the clock in the forenoon, save when prevented by the illness or unavoidable absence of the assistant barrister, or other fatality, and shall at once proceed with the criminal or civil business, after the assistant barrister shall be in attendance; but no decree or proceeding shall be in any manner impeached or questioned in consequence of any trial or civil bill having been commenced or heard at any time before or after any of those hours; and no trial or case, criminal or civil, or other business, shall be entered upon after the hour of six of the clock of the afternoon of any day, &c.

Time for sittings of civil bill courts and quarter sessions.

99. All civil bills, save ejectments and replevins, shall be heard and determined at every sessions in alphabetical order according to the surnames of the plaintiffs, and be entered accordingly in the book of the clerk of the peace, save and except in any case or cases where the assistant barrister shall see reason to vary the same: Provided always, that nothing herein contained shall prevent any assistant barrister from hearing and determining such civil bills in such baronial or other divisions

Order of hearing civil bills.

Civil bills may be heard in baronial or other divisions.

[¹ See note to s. 81.]

as to him shall seem meet; provided that within such divisions they shall be heard and determined in alphabetical order as aforesaid; and provided that such assistant barrister shall give three months' notice of his intention to hear and determine such civil bills in such baronial or other divisions.

Jury may be summoned for trial of all actions for above 20*l.* except in ejectment and replevin.

100. In all actions other than in ejectment and replevin, when the amount claimed shall exceed the sum of twenty pounds, it shall be lawful for the plaintiff or defendant to require a jury to be summoned to try the said action, and such jury shall be summoned in the manner herein-after mentioned: Provided always, that the party requiring a jury to be summoned shall, eight days previous to the first day of the sessions at which said jury may be so required, give to the sheriff or leave at his office a notice in writing setting forth that a jury was demanded by such party for the trial of such action; and such notice shall contain the names of the parties to the said action, and the sessions to which said process is returnable; and the said jurors so to be summoned by the sheriff shall be taken from the list of persons now or at any time hereafter liable to serve as jurors at the assizes or quarter sessions of the respective counties; and the sheriff shall cause so many of the jurors of the said court as, in his opinion, he shall deem sufficient (but not less than twelve) to be summoned to attend the said court at a time and place to be mentioned in the said summons; and the persons so summoned shall attend at the court at the time mentioned in the summons . . . : Provided also, it shall be lawful for the said sheriff to summon any person to act on such jury for the trial of such actions as aforesaid who may be summoned to serve on juries for the trial of criminal cases at the same sessions: Provided also, that whenever there are any jury trials, six jurymen shall be empannelled and sworn, as occasion shall require, to give their verdicts in the causes which shall be brought before them in the said court, and, being once sworn, shall not need to be re-sworn at each trial . . . ; and the jurymen so sworn shall be unanimous in their verdict: Provided also, that all civil bill cases which shall be tried by any such jury shall be tried and heard on such day of the sessions to which such civil bill process shall be returnable, as to the assistant barrister shall seem fit: Provided always, that in case any assistant barrister upon any hearing, or any judge of assize upon any appeal, shall think it proper to have any fact or facts controverted in any cause at hearing before him tried by a jury, in such case a jury, consisting of not less than three nor more than twelve persons, shall be returned instantly by the proper officer to try such fact or facts as shall seem doubtful to such assistant barrister or judge; and the assistant barrister or judge shall proceed to make his decree or dismiss on the verdict of such jury, or as he shall deem fit.

Power to issue summonses to witnesses.

101. For the purpose of procuring the attendance of witnesses in the civil bill courts, it shall and may be lawful for the respective

clerks of the peace of or acting for the several counties and counties of cities and towns in Ireland, upon the request of any person, a party to any proceeding by civil bill, whether ejectment or other, to issue a summons in the nature of a subpoena ad testificandum or duces tecum, directed to any person in Ireland, requiring him personally to appear and give evidence before the assistant barrister, or before the judge on appeal, by whom the matter in dispute is to be heard and determined; and in case any person so served with any such summons without sufficient cause shall not attend pursuant thereto, and produce any deeds, documents, papers, or writings required by such summons to be produced, it shall and may be lawful for the said assistant barrister, or judge on appeal, upon proof that proper service thereof had been duly made in sufficient time before the day for appearance named therein, of the sufficiency whereof the assistant barrister or judge on appeal is to determine, and that the reasonable and suitable expences of such person had been paid or tendered to him at the time of such service, to award such fine against any such person who shall not attend, not exceeding ten pounds, as the said assistant barrister or judge on appeal shall deem fit and proper; he the said assistant barrister or judge on appeal causing to be filed of record in his court an affidavit of the time, place, and manner of the service of such summons, and of the payment or tender of such expences, to be made by the person proving the same; which said fine shall be paid or payable to the party or parties at whose instance and request the said summons shall have been issued: Provided always, that it shall and may be lawful for the assistant barrister or judge on appeal to tax and award against the unsuccessful party in any proceeding by civil bill such sum or sums of money as and for the expences of witnesses . . . not exceeding five pounds in the case of any one witness . . . ; or if the assistant barrister or judge on appeal shall think fit, it shall be lawful for him to award a certain limited sum to be paid for or in lieu of all the costs of all witnesses, but not in any case exceeding the rate aforesaid; and the costs so awarded, when payable by a defendant, shall be recoverable in like manner as and with and in addition to the sum ordered to be paid by him in the decree or order of the assistant barrister or judge of assize on appeal, and, when payable by a plaintiff, shall be recoverable in like manner as herein provided as to the costs of a dismiss: Provided also, that upon the hearing of any ejectment or other civil bill it shall be lawful for the assistant barrister or judge on appeal, in his discretion, to receive in evidence proof of the handwriting of any party or of any subscribing witness to any instrument whatsoever, upon satisfactory proof being given before him that such party or witness resides out of the county where such civil bill shall be so heard.

Fine for non-attendance.

Expences of witnesses summoned from another county to be taxed and awarded against the unsuccessful party.

Proof of handwriting of party or subscribing witness when out of jurisdiction.

102. The parties, plaintiff and defendant, shall in all ejectment and other cases be mutually at liberty to appeal each to the

Parties may appeal to the

oath of each
other, &c.

oath of the other, provided that a notice in writing be served on the party so intended to be examined at least three days previous to the commencement of the sessions; but the assistant barrister or judge on appeal may dispense with the examination of any party in any case in which he may think it expedient so to do; and if he shall deem it to be a case in which he ought not to dispense with the oath of such party, it shall be lawful for such assistant barrister or judge on appeal, in case of the non-attendance of any plaintiff, either to dismiss the process without prejudice, or to nil the same, or in case of the non-attendance of any defendant, and the plaintiff thereby failing to prove his case, to impose on such defendant a fine not exceeding five pounds, to be recovered by civil bill: Provided always, that in case a defendant shall by such notice require the attendance at the hearing of the civil bill of any plaintiff therein who shall reside out of the jurisdiction wherein such civil bill is to be heard, he shall at the time of the service of such notice pay or tender to such plaintiff his reasonable expences (the reasonableness thereof to be determined by the assistant barrister or judge upon appeal); and in the event of the defendant's omitting so to do, such plaintiff so residing out of the jurisdiction shall be excused from attendance in compliance with such notice, and the cause shall proceed and be determined as if no such notice had been served; but in the event of such expences having been paid or tendered, and of the non-attendance of the plaintiff, or of his attendance and of the plaintiff's case being dismissed, the sum paid to the plaintiff shall be added to the ordinary costs of such dismiss: Provided also, that it shall be lawful for the assistant barrister to examine on oath any party who shall be in court, although no notice may have been served upon such party.

Recovery of
fines for non-
attendance by
civil bill.

103. It shall and may be lawful for any party at whose instance any summons or notice shall have issued, requiring the attendance of any person as a witness, or of the opposite party to be examined, when the person so summoned as a witness, or the party noticed to attend, shall not have attended in pursuance of said summons or notice, as the case may be, and shall have been fined for such non-attendance, to proceed by civil bill against such person or party for recovery of the amount of the fine so awarded, together with such expences as may have been paid to such witness in the civil bill court of the division of the county or riding in which such person or party shall reside; and the certificate, signed by the clerk of the peace of the county in which such fine had been imposed, or by his deputy, upon proof of the handwriting of such clerk of the peace or deputy, shall be conclusive evidence that the person so fined for non-attendance had been duly called in court, and did not attend, and had been fined for non-attendance in the amount stated in such certificate: Provided always, that on the hearing of such civil bill it shall and may be lawful for the assistant barrister to

receive evidence on the part of the defendant in such civil bill to satisfy him the said assistant barrister that the said defendant had not been served with the summons or notice, or had not been served in sufficient time to enable him to have attended, or that there was a reasonable and just excuse for the non-attendance of the said defendant; and the assistant barrister shall be at liberty to pronounce a decree, either for the full amount of such fine or for any smaller sum, or a dismiss, and with or without costs, as he may under the circumstances think fit.

104. In case any plaintiff in any civil bill shall be desirous to appeal to the oath of the defendant in such civil bill, it shall be lawful for such plaintiff to cause a notice in writing annexed to the civil bill process to be served upon such defendant at the time of the service of the civil bill, or upon his wife, child, clerk, or servant, or relative of the defendant or of the defendant's wife, aged sixteen years and upwards, residing in his dwelling house, setting forth that the plaintiff in such civil bill requires the personal attendance of the said defendant upon the hearing of such civil bill, to be examined on oath touching the matters therein contained, and that in default of his appearance for that purpose an application would be made to the assistant barrister for a decree founded upon the affidavit of the plaintiff; and in such case, if the defendant shall not appear upon the said civil bill being called on for hearing, the assistant barrister shall postpone the same, so as to enable the plaintiff to make an affidavit setting forth the facts of the case, and such circumstances, if any, as in his judgment would justify the court in making a decree, and also the amount then justly due to him by the defendant in such civil bill, over and above all just and fair credits and allowances; and such affidavit shall be filed and kept with the records of the county or riding where the same shall have been sworn; and the party so swearing such affidavit shall be liable to be prosecuted for perjury in case any false statement shall be contained in the same; and it shall be lawful for the assistant barrister, upon due proof of the service of the said process and such notice annexed thereto as aforesaid, and upon being satisfied that the said defendant was resident at the time of the service other than personal at such dwelling house where such service was made, and was not at the time of the hearing of the said civil bill disabled by sickness or other sufficient cause from attending thereat, and upon consideration of the matter of such affidavit, and upon examination on oath of the plaintiff, in case he shall think fit to examine him, and if he shall be satisfied of the justice of the claim of the plaintiff, to make a decree for such sum as to him shall seem just, or to decline making any decree: Provided also, that in case any decree shall be made, it shall appear on every such decree so made as last aforesaid that the same was made upon the affidavit of the plaintiff filed in the said court, specifying the date thereof.

Decrees pro-
confesso in
certain cases.

Proceedings
not to be void
for technical
errors.

105. No action or proceeding under or by virtue of this Act shall be treated or considered as invalid on account of any verbal or technical error in the same; and it shall be lawful for every assistant barrister, or judge on appeal, to decide and determine what is a verbal or technical error or mistake in any action or proceeding; but all errors or mistakes which have not a tendency to mislead the opposite party shall in all cases be deemed merely verbal or technical.

Variances.

Assistant
barristers, &c.
may amend
variances, &c.
and correct
misjoinders.

106. It shall and may be lawful for the several assistant barristers, and judges on appeal, and they are hereby respectively empowered, in all cases, to amend all variances between the statement of the cause of action in any civil bill or other process or proceeding in their respective civil bill courts, and the evidence in support of such cause of action, and also to amend all variances, omissions, and misdescriptions in the descriptions, additions, and residence of the parties or any of them, or otherwise howsoever of or in any such process, or between the original and any copy or copies thereof, provided such last-mentioned variances, omissions, or misdescriptions shall not, in the opinion of the assistant barrister, be calculated to mislead the defendant or defendants therein; and in every case of any misjoinder of parties or causes of action it shall and may be lawful for every assistant barrister to strike out of the process the name or names of any one or more plaintiffs or defendants, or any count or counts in such process, by reason of whom or which such misjoinder shall arise, and thereupon to proceed therein as to justice shall appertain.

Evidence.

Office copies of
judgments, &c.
to be evidence.

Evidence of
appointments
of receivers.

107. In every proceeding before the court of the assistant barrister or of the judge of assize upon appeal an office copy of any judgment, decree, or order made by or before any court of law or equity in Ireland, certified to be a true copy by the proper officer of such court of law or equity, as the case may be, shall, upon proof of such officer's handwriting, be deemed and taken as *primâ facie* evidence of such judgment, decree, or order of such courts respectively: Provided always, that in every civil bill proceeding under this Act, where it may become necessary to prove the appointment of any person to be a receiver in any cause in any of the superior courts of equity in Dublin, an office copy of the order appointing such person such receiver, duly proved as aforesaid, shall be sufficient evidence of the appointment of such person as such receiver; and it shall not be necessary to produce in proof of such appointment the bill and answer or any other proceeding in the cause in which said person shall have been so appointed such receiver.

Office copies
of wills to be
evidence of
the contents
thereof in civil
bill courts, &c.

108. In every proceeding before any assistant barrister in any civil bill court, or before a judge of assize on appeal, an office copy of any original will or other testamentary document lodged in any ecclesiastical court in Ireland, or in the registry thereof, and which shall appear by such copy to have been duly proved,

and probate or letters of administration thereof granted, shall, upon due proof of the signature of the proper officer of such ecclesiastical court, certifying the same to be a true copy of such original will or other testamentary document, be admitted as *primâ facie* evidence of the contents of such original will or testamentary document of which it purports to be an office copy, without the production of the original will or testamentary document; and the proper officer of any such ecclesiastical court is hereby required to make a memorandum in writing upon such office copy of the time at which and the person or persons to whom such probate or letters of administration shall have been granted.

109. The assistant barrister may in any case make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of any civil bill, and also may from time to time, and to the next subsequent sessions for the same division, but not longer, adjourn the hearing or the further hearing of any civil bill, as to the said assistant barrister may seem fit.

Assistant barrister may grant time and adjourn the hearing of a cause.

[*S. 110 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Decrees.

111. Wheresoever any assistant barrister shall, in any civil bill brought under and by virtue of this Act, grant a decree, the same shall be with such costs as are provided by this Act; but in case the plaintiff in any civil bill shall not proceed with the same, or shall fail to establish his case to the satisfaction of the assistant barrister, such assistant barrister shall and he is hereby authorized and empowered to dismiss such civil bill, with such costs as are by this Act provided (save as herein-after mentioned) and either without prejudice to the plaintiff's proceeding by a new civil bill, or on the merits, as he shall think just.

Provision as to costs.

112. The assistant barrister, upon pronouncing any decree for any sum of money, may order the time or times when and by what instalments the debt or damages and costs for which such decree shall be obtained shall be paid: Provided, that if the assistant barrister shall have made such order for the payment of such sum of money and costs by instalments, the said decree shall not issue against the defendant until after default in payment of some instalment according to such order; and immediately upon such default being made, and affidavit thereof lodged with the clerk of the peace (and which affidavit any justice of the peace is hereby authorized and required to take), the said decree may issue for the whole, or for such balance as may then remain due after deducting such instalment or instalments as were previously paid.

Decrees may order debts, &c. to be paid by instalments, &c.

113. It shall and may be lawful for the assistant barrister, upon the hearing of any civil bill where there shall be more than one defendant, to grant a decree, with costs, against one or more of such defendants, and to grant a dismiss as to the other or

Where more than one defendant, a dismiss may be given in

favour of some and a decree against others.

Decrees of assistant barrister may be signed by his successor.

others of the defendants, either with or without costs, as he shall think fit.

114. In case of the death, removal, or incapacity of any assistant barrister, it shall and may be lawful for his successor, or the barrister for the time being acting for him, to sign any order or decree pronounced by the barrister so dying or removed, or becoming incapable as aforesaid, and to act in all respects in reference to the orders made as the barrister so dying or removed, or being incapable as aforesaid, might have done; and the order and decree so signed shall be as valid and effectual as if the same had been signed by the assistant barrister who pronounced the same.

Process of arrest.

[*Ss.* 115–117, 120, 122–124 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*) *Ss.* 118, 121 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*) *S.* 119 *rep.* 20 & 21 *Vict. c.* 60. *s.* 2.]

Wearing apparel, bedding, and tools of debtors to the value of 5*l.* not to be seized in execution under civil bill.

125. [*Recital.*] The wearing apparel and bedding of any debtor in Ireland, and the tools and implements of his trade or business, the value of such apparel, bedding, tools, and implements not exceeding in the whole the value of five pounds, shall not be liable to seizure under any decree, dismiss, or order of any civil bill court against his goods and chattels: Provided always, that whether the value of such apparel, bedding, tools, and implements shall or shall not exceed the value of five pounds, they shall, to an extent not exceeding five pounds in value, be protected from such seizure as aforesaid.

Affidavits as to civil bill proceedings may be taken by assistant barristers out of their counties, &c.

126. It shall and may be lawful for every assistant barrister in Ireland, although he shall not be at the time within the county of which he shall be such assistant barrister, to take any such affidavit or affidavits as he is now by law entitled to take, or as in any way relates to any action or proceeding in his court of civil bill jurisdiction, and to administer the necessary oath or oaths for that purpose; and every such affidavit shall be of the same force and effect, and the penalty for any false swearing therein shall be the same, to all intents and purposes, as if such affidavit was taken by or before such assistant barrister in the civil bill court within his county: Provided always, that every affidavit relating to or concerning any action or other proceeding in his court of civil bill jurisdiction shall, within six days after the day on which such affidavit shall be made, be delivered to the clerk of the peace of such county, or at the office of such clerk of the peace within such county to be filed amongst the records of such court, otherwise such affidavit shall be null and void.

Appeals.

[*Ss.* 127–130 *rep.* 45 & 46 *Vict. c.* 29. *s.* 9.]

Sheriffs neglecting to pay over deposit or sums levied under decrees, liable to pay

131. . . . if the sheriff shall refuse or neglect to pay over any sum levied by virtue of any execution of such decree or dismiss to the person or persons entitled thereto, or to such person or persons as by him or them shall be lawfully authorized to receive the same, upon demand made for that purpose, such

sheriff so offending shall forfeit to the party aggrieved double the sum so deposited with or received by such sheriff, together with legal interest for the same from the time of such demand, to be recovered by civil bill before the assistant barrister for the county for which such sheriff so acted, with like power of appeal as in the case of any ordinary civil bill.

[*S. 132 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

133. Such decrees and dismisses as shall be made and pronounced by such recorder and assistant barristers respectively, shall, in case there shall be no appeal therefrom, be absolutely final to all intents and purposes, and shall not be subject to be removed, by any writ of error or otherwise, to any other of her Majesty's courts, or capable of being reversed; and in case of an appeal from any such decree or dismiss to the next going judge of assize . . . the order or decree of such courts shall in like manner be absolutely final to all intents and purposes, and shall not be removed to any of her Majesty's courts, by writs of error or otherwise, and shall not be capable of being reversed.

If no appeal, decrees and dismisses to be final.

In case of appeal the decree of judge of assize, &c. to be final.

134. In all cases where it shall happen that there are two or more defendants, and that the recorder or assistant barrister shall decide that one or more of said defendants is or are liable to the plaintiff's demand, and that the other or others of said defendants is not or are not liable to same, and shall accordingly direct a decree to issue against one or more of the said defendants, and at the same time a dismiss against another or others of them, it shall and may be lawful in all such cases for the defendant or defendants, against whom such decree has been made to appeal in the same manner and under the same restrictions and provisions as if there was but one defendant in the cause.

Where there are several defendants, and assistant barrister dismisses as to some and decrees against the others, the defendants decreed against may appeal.

135. In all cases where there shall be several plaintiffs or several defendants, it shall be lawful for any one or more of such plaintiffs to appeal against a dismiss, and for any one or more of such defendants to appeal against a decree, pronounced by the assistant barrister, although the other or others of said parties, plaintiffs or defendants, shall refuse or decline to join the said plaintiff or defendant so desirous of appealing: Provided always that such decree or dismiss so appealed against shall not, pending such appeal, be executed against the party or parties not appealing.

One or more of several plaintiffs or defendants may appeal without the others.

136. Where in any civil bill there shall be several plaintiffs and several defendants, and all or more than one of such plaintiffs, or all or more than one of such defendants, as the case may be, shall appeal from the decree or dismiss of the recorder or assistant barrister, and after the lodging of such appeal any of such parties, plaintiffs or defendants, shall die (in case of a plaintiff or plaintiffs) leaving another plaintiff or other plaintiffs surviving, and (in case of a defendant or defendants) leaving another defendant or other defendants surviving, such appeal

Appeals shall not be abated by the death of parties where there are several plaintiffs or defendants, but may be prosecuted by survivors.

shall not abate by such death or deaths, but the same may be proceeded with at the suit of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, or vice versâ, as the case may be.

Notices on parties below to be good in cases of appeal.

137. In all cases where any party to any civil bill shall have given notice in writing to the opposite party to produce, upon the hearing of said civil bill before the recorder, or assistant barrister, any document, or any notice of set off, or any notice of any other kind or description whatsoever, it shall not be necessary for such party or parties so having given such notice to renew the same upon or for the hearing of any appeal that may be brought in such case, but any such notice so given for the original hearing of the civil bill shall be effectual in like manner upon the appeal.

Special case for the opinion of the judge on appeal on a question of law.

138. In all cases of appeal from any civil bill decree or dismissal it shall be lawful for the recorder, or assistant barrister, in case he shall be of opinion that a question of law only is involved in such proceeding, by consent of the parties respectively, to state a special case under his hand for the opinion of the judge on appeal upon such question of law; and thereupon like proceedings shall be had, and a like decision given upon such appeal and special case, and subject to like provisions, as in other cases of appeal, save that, without further proof of the facts of the case, the decision of the court of appeal shall be given upon such special case.

Renewals of decrees.

Decrees, &c. shall be in force for one year, and may be renewed every six months.

139. Every decree and dismissal made and signed by any assistant barrister shall be in full force and effect for one year from the date of the same; and the same, if not before executed, may be renewed from time to time once in every six months, or as near thereto as the time for holding the several sessions will permit: [1] Provided always, that no civil bill decree for possession of any lands or tenements, or any affirmance of such decree . . . shall be renewed, save for the costs thereby decreed.

Decree not to be renewed till affidavit made by plaintiff, &c.

140. No decree shall be at any time renewed until the plaintiff in such decree, or one of the plaintiffs, if there be more than one, or, in case of the death of a sole plaintiff, then his or her personal representatives, or one of them, and, in case of more than one plaintiff, the surviving plaintiff, or one of the representatives of a deceased plaintiff, shall have made affidavit before the said assistant barrister for the county in which such decree was made or pronounced in open court held as aforesaid for such division; which affidavit . . . shall state the names of the parties in the original cause, the sum for which such decree was made, and the sum then remaining due or unpaid to the plaintiff

[1] The proviso in section 139, that no civil bill decree for possession of any lands or tenements, or any affirmance of such decree shall be renewed, save for the costs thereby decreed, is rep. 27 & 28 Vict. c. 99. s. 60., as to so much as is inconsistent with the power of renewal specially given by that Act.]

or plaintiffs, or their personal representatives, on the foot of the said decree, after all just allowances: Provided that if the person swearing such affidavit was a party in the original cause as personal representative to some other person, or if such person so swearing shall seek to renew any decree or dismiss as executor or administrator of one of the parties in the original cause, it shall be sufficient for such person to swear that such sum still remains due, after all just allowances, as he or she verily believes: . . .

141. No dismiss shall be at any time renewed until the defendant who shall have obtained the same, or one of the defendants, if there shall be more than one defendant, or, in case of the death of a sole defendant, then his or her personal representatives, or one of them, and, in case of more than one defendant, the surviving defendant, or one of the representatives of a deceased defendant, shall have made affidavit, in like manner and form, mutatis mutandis, as is herein-before provided in the case of renewing a decree; which affidavit so sworn and signed by and with the name or mark of the person so swearing it, as well where the party shall seek to renew a decree as a dismiss, shall be written or printed on the same piece of paper with the renewal of the said decree or dismiss, filled and prepared for the said assistant barrister to sign; and when such affidavit shall have been sworn the said assistant barrister shall sign his name thereto, testifying that the same was sworn before him in open court; and the said assistant barrister shall and may then renew such decree or dismiss (by signing such renewal) for the whole original sum and costs, if the whole shall be due, or for such sum as shall be sworn or affirmed to remain due, as the case shall happen, together with the costs of such renewal; and thereupon the said affidavit shall be separated from the said renewal, and shall be delivered to the clerk of the peace for the county or his deputy, and shall be kept among the records of the county.

Dismiss not to be renewed till affidavit made.

142. It shall be lawful for any plaintiff or defendant, or surviving plaintiff or defendant, or the executor or administrator or assignee of any plaintiff or defendant who shall have become bankrupt or insolvent, or the husband of any plaintiff or defendant, by whom any decree or dismiss was obtained, to renew any decree or dismiss, or any affirmance or reversal of any decree or dismiss of the assistant barrister affirmed or reversed on appeal, against any defendant or plaintiff or surviving defendant or plaintiff, or the personal representatives of such parties respectively; provided that all such renewals shall be subject to the same and the like conditions and regulations as are herein prescribed: Provided always, that it shall not be lawful for any assistant barrister to grant a renewal of any civil bill decree or dismiss, affirmance or reversal, when two years shall have elapsed after such decree or dismiss, affirmance or reversal, shall have been pronounced, nor at any time to grant such renewal to or against any person not being an original party to such civil bill, unless upon proof

Decrees or dismisses may be renewed by plaintiff or defendant, or their executors, &c.

No renewal after two years, nor at any time to or against other than the original parties, except upon notice.

made in open court that the party seeking such renewal caused notice in writing . . . to be served upon the person against whom it is sought to renew such decree or dismiss, affirmance or reversal, setting forth the particulars of such decree, and the amount for which the application to renew such decree is proposed to be made; such notice to be served in like manner as civil bill processes are hereby required to be served, and at the like time previous to the first day of holding the civil bill court to which such application is intended to be made, and to be entered with the clerk of the peace, and heard and determined in like manner as any ordinary civil bill.

[S. 143 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Decree or
dismiss not to
be renewed
after six years.

144. No decree or dismiss to be made or pronounced, by any assistant barrister, shall be renewed at any time after six years from the time of the making or pronouncing the same; but the debt and costs therein shall, after seven years from the making of the original decree or dismiss, be absolutely extinguished, and shall not be capable of being enforced by any proceeding whatsoever; and such decree or dismiss, or renewal thereof, shall not be revived or kept in force by any parol evidence or promise to pay the same or any part thereof, or by any evidence of a part payment thereof: Provided nevertheless, that if the defendant or defendants shall execute any new security in writing for such debt or costs, such new security shall be of full force and effect in law.

[Ss. 145–147 *rep.* 27 & 28 *Vict. c.* 99. s. 60.]

*Execution of
decrees.*

Punishment of
persons taking
cattle or goods
under any
decree or dis-
miss between
sunset and
sunrise.

148. If any cattle or goods shall be taken and carried away under any decree or dismiss, or under colour of any decree or dismiss obtained upon any civil bill, between the hours of sunset and sunrise, the person or persons so taking and carrying away the same shall be deemed guilty of a misdemeanor, and being convicted thereof shall suffer such punishment by fine or imprisonment, or both, as to the court who shall try the case shall seem meet; and in any indictment for this offence it shall be sufficient to allege generally that the party or parties fraudulently, contrary to the intent of this Act, carried away such cattle or goods between the hours of sunset and sunrise, without describing more particularly the circumstances of such offence; and the property in the goods and cattle so taken shall not be altered by any sale thereof.

[S. 149 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Where goods
taken under a
decree are
claimed by a
third person,
he may, on
making an
affidavit, and

150. [*Revital.*] When any goods taken under any decree, order, or process of any civil bill court in Ireland shall be claimed by any person who is not a party to such decree, order, or process, it shall and may be lawful for the said person so claiming such goods so taken as aforesaid, or his agent, to make an affidavit before any justice of the peace for the county wherein

such goods shall have been seized under such decree, order, or process (and which affidavit such justice is hereby empowered to take and receive), to the purport that the said goods are the bonâ fide property of the person so claiming the same; and it shall and may be lawful for the sheriff of the county where such goods shall be so seized, upon the lodgment with the said sheriff of such affidavit, and of the amount of the sum mentioned in such decree, order, or process, where the value of the goods so seized shall exceed or be equal to the amount of the sum mentioned in such decree, order, or process, or, in the event of the value of the goods so claimed being less than the sum so mentioned, then such sum as shall be equal to the value of such goods (such value to be ascertained by any appraiser appointed by the said sheriff for taking replevins), to issue an order for the delivering up of such goods to the said person so claiming the same, or to cause the same to be delivered up accordingly; and the said sheriff shall, within eight days from the day of lodgment of such affidavit as aforesaid, transmit same to the office of the clerk of the peace, to be there filed, and shall hold the said money so deposited with him to abide the order or decree of the assistant barrister in respect of the same, as hereinafter mentioned; and the person so claiming the said goods, and depositing the said money with the sheriff as aforesaid, shall cause a civil bill process to be served on the plaintiff or party in such decree, order, or process, at whose suit such goods shall have been taken, stating that he claims the same as his property; and the said civil bill shall be returnable to the quarter sessions for the division of the county in which such seizure was made next after such deposit with the said sheriff, provided that the same can be served on the defendant in due time for such next quarter session, and if not then to the session for the division next following, and not after; and the said civil bill as to the said claim of property shall be served, heard, and determined as any ordinary civil bill, and the said assistant barrister shall make a decree or dismiss thereon, as he shall think fit, with costs; and if the said claim of property shall not be substantiated to the satisfaction of the assistant barrister, then the said sheriff shall, and he is hereby required, upon the production to him of a dismiss in such case or in case of the non-production of a decree for the plaintiff therein, within ten days from the termination of the sessions at which such civil bill ought to have been brought, without further order, pay over the monies so deposited to the defendant in such last-mentioned civil bill, and credit shall be given by such defendant for the same out of the amount due on the original decree, order, or process; and in like manner, upon the production to the sheriff of a decree in favour of the claimant of the said property, the said sheriff shall pay back to the said claimant the said sum of money so deposited with him as aforesaid: Provided always, that it shall and may be lawful for the assistant barrister before whom such claim of property shall be tried, if he shall think fit, and damages shall be claimed

lodging the amount of the sum mentioned in the decree, or the value of the goods, with the sheriff, have the goods delivered to him.

Claimant to bring a civil bill at the next session against plaintiff in decree; and assistant barrister to make a decree or dismiss thereon.

Sheriff shall pay the money lodged with him to the party entitled.

Damages may be given for original taking.

Party refusing to deliver up the goods on sheriff's order, or retaking them, guilty of a misdemeanor.

in the process, to give damages, not exceeding in any case five pounds, for the original taking of the said goods, as well as to make an order for the payment of the said deposit to the claimant: Provided also, that if any person or persons shall decline or refuse to deliver up the goods so taken upon any decree, order, or process under this Act, after production to him or them of the order of the sheriff for that purpose, or shall retake such goods under the same decree or order, under which the same were so originally taken, such person or persons so offending shall be deemed guilty of a misdemeanor, and liable to be punished accordingly; and in any indictment for this offence it shall be sufficient to allege generally that the party knowingly and wilfully declined and refused to deliver up such goods, or re-took the same (as the case may be), after production to him of the said order of the said sheriff; and provided also, that nothing in this provision contained shall debar the party claiming the goods as aforesaid from any remedy to which he would have been entitled if this Act had not been passed, instead of proceeding under this provision.

Miscellaneous provisions.

Assistant barristers may fine clerks of the peace and sheriff's guilty of any breach of duty, and may fine or commit to prison persons for disturbing the court, &c.

151. It shall and may be lawful for every assistant barrister, from time to time as there shall be occasion, of his sole authority, and at his discretion, to fine the clerk of the peace, or his deputy, of all counties and ridings respectively, and all sheriffs of counties and counties of cities and counties of towns respectively, where courts for deciding causes by civil bill shall be held, who shall respectively be guilty of any breach of duty in the execution of this Act, in any sum not exceeding five pounds, and, of his sole authority, and at his discretion, to fine in any sum not exceeding forty shillings, or, at his discretion, to commit to prison for any time not exceeding a fortnight, any person whomsoever who shall disturb the court so to be held by him for the hearing and determining causes by civil bill, or for any other contempt of the said court.

Fees specified in sched. (D.) to be deemed the lawful fees.

152.^[1] In all actions and proceedings by civil bill the fees specified in the schedule (D.) to this Act annexed shall be established and be deemed and taken as the lawful fees and emoluments for the discharge of the several duties therein specified by the respective officers therein mentioned, and no other fees or payments shall be recoverable for the discharge of such duties; and every clerk of the peace, or his deputy, attorney, sheriff, bailiff, or process officer, who shall receive any greater fee, gratuity, or emolument, or other consideration, for any of the services specified in the said schedule, shall forfeit and pay the sum of ten pounds sterling for every such offence, to be recovered by civil bill by any person who may sue for the same.

Penalty for taking larger fees.

Fees in sched. (D.) to be chargeable

153.^[1] The several fees mentioned and set forth in the schedule (D.) to this Act annexed in that behalf shall be the

^[1] Sched. (D.) is rep. 55 & 56 Vict. c. 19. (S.L.R.). See now Schedule of Fees annexed to Rules of 1 March 1890 (Stat. Rules and Orders, 1890, p. 88).]

fees chargeable against any party, plaintiff or defendant, as between party and party, upon any civil bill brought under the provisions of this Act; and no other fee or charge shall be made in any bill of costs between party and party, or in any decree or dismissal, other than those set forth in said schedule.

[S. 154 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

155. [1] Every clerk of the peace shall and he is hereby required to cause to be constantly exposed, as well in his office as also in some particular place accessible to the public in every court of general or quarter sessions within his county, a fair and legible table, painted or printed in letters and figures not less than one half inch in length, of the fees payable upon all proceedings upon all civil bills, and likewise the penalty to which any person may become liable for receiving any greater fee than is set forth in the said schedule (D.) to this Act annexed for any of the services therein specified; and on proof made on summary application to the court of any neglect or omission of such exposure, the clerk of the peace so neglecting shall forfeit any sum not exceeding five pounds, to be paid to the treasurer of the county within which such penalty shall be incurred, and accounted for and applied by such treasurer to the aid of the expenditure of such county; and it shall be lawful for the grand jury of every county, and they are hereby required, at any assizes to be held in and for such county, to present the reasonable and actual expence of preparing and exposing such tables to be raised by presentment upon such county, and to be paid to such clerk of the peace.

[S. 155 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

157. If any person taking an oath in any action, examination, or other proceeding under the provisions of this Act, shall wilfully and corruptly swear falsely, he shall be deemed guilty of perjury, and shall be liable to be prosecuted and punished accordingly; and if in any such action, examination, or other proceeding the assistant barrister shall deem any witness or party to have so far wilfully and corruptly sworn falsely, as that in his opinion such witness or party ought to be prosecuted at the expence of the county within which the witness or party shall have so sworn, and shall certify such opinion in writing, then and in every such case, if any prosecution be instituted, the court in which such prosecution shall take place shall make an order for payment of the expences of such prosecution by the treasurer of the county.

Persons swearing falsely, &c. to be guilty of perjury, &c.

158. All jurisdictions, powers, and authorities by this Act conferred upon the assistant barristers of counties in relation to proceedings by civil bill are hereby conferred upon the recorder of Dublin, and the recorder of Cork: Provided always, that, so far as regards the recorder of Dublin, and the recorder of Cork, nothing in this Act contained shall be deemed or taken to

Powers of assistant barristers, &c. under this Act conferred upon recorders of Dublin and of Cork.

abridge or in any manner affect the jurisdiction conferred on the said respective recorders by the Acts of the third and fourth years of her Majesty, chapter one hundred and eight, and of the thirteenth and fourteenth years of her Majesty, chapter seventy-three, where such jurisdiction shall exceed the jurisdiction conferred by this Act; and that nothing herein contained shall be taken to alter the mode of appointment of a deputy by such recorders, or of officers of the court of the said recorders, or the existing power of such respective recorders to appoint the proper officers of such courts for the service or execution of the process of the same under this Act; and if any doubt shall arise in the application of this Act as to what officers of such courts shall correspond with those named in this Act under proceedings by civil bill, it shall be lawful for such courts respectively to determine the same.

Proceedings by civil bill under 3 & 4 Vict. c. 108., &c. to be had or taken before recorders of boroughs, shall be, as near as may be, in the forms, &c. provided by this Act.

159. [*Recital of 3 & 4 Vict. c. 108. s. 183.*] All proceedings by way of civil bill under said recited Act, or under any other Act not hereby repealed, to be had or taken before any recorder of a borough or town in Ireland, other than the recorders of Dublin and Cork, shall be, as nearly as the circumstances of the case will admit, in the forms, and subject to the like provisions as to stamps and fees, and according to such course, and with such right of appeal to a judge of assize or at nisi prius of the county or city in which for such purpose such borough or any part thereof shall be situate, and subject to such other rules and regulations, as by this Act is provided in cases of civil bills determinable before any assistant barrister or chairman, and with the same amount and limits of jurisdiction: Provided always, that nothing herein contained shall be construed to affect the manner or times of holding the courts of such recorders for the hearing of such civil bill proceedings, or to abridge any existing power of such respective recorders to appoint the proper officers of such courts for the service or execution of the process of the same; and if any doubt shall arise in the application of this Act, as to what officers of such courts shall correspond to those named in this Act for the service or execution of process, it shall be lawful for such courts to determine the same.

[*S. 160 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

161. [*Repealed portion refers to the duties of the chairman of the county of Dublin with respect to the registry of voters for the city of Dublin under 2 & 3 Will. 4. c. 88, and to the discharge of such duties until death or resignation.*] It shall and may be lawful for the Lord Lieutenant to nominate and appoint a practising barrister-at-law of ten years standing at the least, during good behaviour, who shall have actually practised ten years in her Majesty's superior courts in Dublin, and who shall not at the time of his appointment to such office have retired from such practice, to discharge the said duties with regard to the registry of voters in and for the City of Dublin, . . .

Appointment of revising barrister for city of Dublin.

162. In the construction of this Act the several proceedings and duties hereby directed to be had and done in the office of and by the clerk of the peace shall be had and done (as regards the City of Dublin) in the office of and by the registrar of civil bills for the City of Dublin; and the provisions of this Act in relation thereto shall extend to such registrar of civil bills; and the expression "assistant barrister" or "assistant barristers" shall extend to and include the recorder of the City of Dublin and the borough of Cork, and the several recorders herein mentioned, in civil bill proceedings, save and except so far as relates to the appointment, salary, retiring pension, and continuance in office of the said recorders, or so far as it is by this Act in other respects otherwise specially provided; and wherever the clerk of the peace is named in this Act, the provision shall extend to the acting or deputy clerk of the peace or other officer discharging the duties of a clerk of the peace; and whenever the sheriff is named, the provision shall extend to the sub-sheriff; and the words "party" and "person," whenever used in this Act, shall extend to and include any corporation or public company; and the word "county" or "counties" shall extend to include "riding" or "ridings" of counties appointed for civil bill purposes and for all or any matters relating to general or quarter sessions; unless in any of such cases there be something in the context or provision repugnant to or inconsistent with such construction.

~~**163.** The schedules to this Act annexed shall be deemed and understood as part of this Act.~~ Schedules to be part of Act.

[S. 164 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

165. This Act shall extend to Ireland only, save where the contrary is hereby expressed. Extent.

SCHEDULES to which the foregoing Act refers.

[*Sched. (A.) rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

SCHEDULE B.

Sects. 4, 26.

	Counties.	Salary of Assistant Barristers.
	* * * *	* *
Class II.	Cavan, Cork, West Riding, Fermanagh, Leitrim, Queen's County, Roscommon, Sligo, Waterford, Wexford,	800 <i>l.</i> per annum.

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	Counties.	Salary of Assistant Barristers.
	* * * * *	
Class III.	{ Carlow, Kildare, King's County, Longford, Louth, Meath, Westmeath, Wicklow, }	600 <i>l.</i> per annum.

[Scheds. (C.) & (D.) rep. 55 & 56 Vict. c. 19. (S.L.R.)]

CHAPTER LXIII.

AN ACT for the Settlement of the Boundaries between the
Provinces of Canada and New Brunswick.

[7th August 1851.]

[Preamble recites the existence of disputes respecting the boundary line between provinces of Canada and New Brunswick, an agreement to refer the said disputes to three arbitrators, an agreement as to the application of the funds in the hands of the local governments arising from the disputed territory, the appointment of three arbitrators, and the following award of the Right Hon. Stephen Lushington and Travers Twiss, two of the said arbitrators, dated 17th April 1851: "That New Brunswick " shall be bounded on the west by the boundary of the United " States, as traced by the Commissioners of Boundary under the " treaty of Washington dated August 1842, from the source of " the Saint Croix to a point near the outlet of Lake Pech-la- " wee-kaa-co-nies or Lake Beau, marked A. in the accompanying " copy of a part of plan 17 of the survey of the boundary under " the above treaty; thence by a straight line connecting that " point with another point to be determined at the distance of " one mile due south from the southernmost point of Long Lake; " thence by a straight line drawn to the southernmost point of " the fiefs Madawaska and Temiscouata, and along the south- " eastern boundary of those fiefs to the south-east angle of the " same; thence by a meridional line northwards till it meets " a line running east and west, and tangent to the height of land " dividing the waters flowing into the River Rimou-ki from those " tributary to the Saint John; thence along this tangent line " eastward until it meets another meridional line tangent to " the height of land dividing waters flowing into the River " Rimouski from those flowing into the Restigouche River; " thence along this meridional line to the 48th parallel of " latitude; thence along that parallel to the Mistouche River; " and thence down the centre of the stream of that river to the " Restigouche; thence down the centre of the stream of the " Restigouche to its mouth in the Bay of Chaleurs; and thence " through the middle of that bay to the Gulf of Saint Lawrence; " the islands in the said rivers Mistouche and Restigouche to

" the mouth of the latter river at Dalhousie being given to New Brunswick ; . . . "

1. New Brunswick shall be bounded as in the said award mentioned; and it shall be lawful for one of her Majesty's Principal Secretaries of State to appoint such person or persons as he may think fit to ascertain, define, and mark the boundary line between the said province of New Brunswick and the said province of Canada, according to the intent of the said award.

The line described in the award to be the boundary, and to be set out accordingly.

2. The net proceeds of the funds in the hands of the local governments of the said provinces of Canada and New Brunswick respectively arising from the territory heretofore in dispute between such provinces shall be applied according to the terms herein-before mentioned of the said agreement concerning the same.

The funds accrued from the disputed territory to be applied according to the agreement.

CHAPTER LXIV.

AN ACT to repeal the Act for constituting Commissioners of Railways. [7th August 1851.]

[*Preamble recites 9 & 10 Vict. c. 105.*]

1. [*Repeal of recited Act.*] All powers, rights, authorities, and duties vested in or exercised or performed by the Commissioners of Railways under any Act passed since the passing of the said recited Act, or which may be passed during the present session of Parliament, shall be transferred to and vested in and performed by the Lords of the Committee of her Majesty's Privy Council for Trade and Foreign Plantations, as if they had been named in such Acts instead of the said commissioners; . . .

Recited Act repealed, and powers, &c. of Commissioners of Railways under subsequent Acts transferred to Board of Trade.

2. It shall be lawful for the Lords of the said committee, with the approval of the Treasury, to continue, for the transaction of the business transferred to the Lords of the said committee under this Act, all or any of the officers and servants appointed by the said Commissioners of Railways, and from time to time, with such approval, to remove such officers and servants, or any of them.

Board of Trade may continue officers appointed by Commissioners of Railways, &c.

3. Where by any Act relating to railways or to any railway the Commissioners of Railways or the Lords of the said committee are empowered or required to make or issue any appointment, authority, determination, order, requisition, regulation, certificate, or notice, or to do any other act, the Lords of the said committee may . . . signify such appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act by a written or printed document, signed by one of the joint secretaries of the Lords of the said committee, or by some assistant secretary, or other officer appointed by them to sign documents relating to railways; and every appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act, signified by a written or printed document purporting to be so signed as aforesaid, shall be deemed to have

Appointments, orders, &c. of the Board of Trade, how to be signified, &c.

been duly made, issued, or done by the Lords of the said committee; and every such document shall be received in evidence in all courts and before all justices and others, without proof of the authority or signature of such secretary or other officer, or other proof whatsoever, until it be shown that such document was not signed by the authority of the Lords of the said committee.

CHAPTER LXV. :

AN ACT to continue certain temporary Provisions relating to the Collection of Grand Jury Cess in Ireland; . . .

[7th August 1851.]

[*Preamble.*]

[Ss. 1, 3 *rep.* 38 & 39 *Vict.* c. 66. (*S.L.R.*) S. 2 *rep.* 41 & 42 *Vict.* c. 79. (*S.L.R.*) S. 4 *rep.* 55 & 56 *Vict.* c. 19. (*S.L.R.*)]

Provisions of
recited Act to
extend to
county of
Dublin.

5. [*Recital* of 13 & 14 *Vict.* c. 82.] In the county of Dublin any grand jury cess may be levied by like remedies, in like manner, and subject to like provisions, as in the said recited Act contained and provided for the collection of grand jury cess in other counties.

CHAPTER LXVIII.

AN ACT to provide for the better Distribution, Support, and Management of Medical Charities in Ireland; and to amend an Act of the Eleventh Year of Her Majesty, to provide for the Execution of the Laws for the Relief of the Poor in Ireland.[¹]

[7th August 1851.]

[*Preamble* recites 10 & 11 *Vict.* c. 90.]

[Ss. 1, 2 *rep.* 55 & 56 *Vict.* c. 19. (*S.L.R.*) S. 1. *authorized appointment of two Commissioners, to be "The Commissioners for administering the Laws for Relief of the Poor in Ireland," whose functions are now vested in the Local Government Board.*]

Appointment
of inspectors.

3. The said commissioners may from time to time appoint so many fit persons as the Treasury shall sanction, being practising physicians or surgeons of not less than seven years standing, to be inspectors to assist in carrying out the provisions of this Act, and may remove all or any of the said inspectors, and appoint others in their place.

[S. 4 *rep.* 55 & 56 *Vict.* c. 19. (*S.L.R.*)]

Medical com-
missioner and
inspectors not
to practise as
physicians, &c.

5. Neither the medical commissioner nor any such inspector as aforesaid shall, while he continues in such respective office, practise as a physician or surgeon, or in any other professional capacity.

Alteration of
dispensary
districts.

6. [*Provision for the division of unions into Dispensary Districts, rep.* 38 & 39 *Vict.* c. 66. (*S.L.R.*)] It shall be lawful for

[¹ Short title, "The Poor Relief (Ireland) Act, 1851." See 55 & 56 *Vict.* c. 10.]

the said commissioners, and they are hereby empowered, when they may see occasion, from time to time to require the guardians to alter such districts, subject to the approval by order under seal of the said commissioners; and in case of their disapproval, or of the neglect of the guardians to make such alteration when required, the said commissioners may alter such districts by such an order: Provided always, that in no case shall an electoral division formed under the Acts for the more effectual relief of the destitute poor be divided; and from and after a day or days to be named in any such order the cost of all medical relief afforded within any such dispensary district to which such order shall relate, together with all the salaries and charges incidental to the same, shall be charged on the poor rates of the electoral division or divisions comprised therein, according to the net annual value of each such division under the poor law valuation in force for the time being; and the said commissioners shall declare in such order the number and qualifications of the officers to be appointed for the service of each such dispensary district, and shall likewise declare in the said order the number of persons who shall be members of the committee of management of such districts, as herein-after is provided.

7. Within one month after the receipt of the said order the guardians of the union shall elect, if necessary, a sufficient number of ratepayers resident in each district, and liable to pay poor rates in respect of property therein of the net annual value of thirty pounds at the least, who, together with the ex-officio and elected guardians of the poor resident or being the owners or occupiers of property therein, shall be a committee for the management of the dispensary of such district, so that the number of the members of the said committee shall amount to the number named in the order of the said commissioners, and shall from time to time fill up any vacancies occurring after any general election of such committee; and the committee so appointed shall hold office until the appointment of a new committee after the next annual election of guardians in the said union; and at the first meeting of the guardians after such annual election, or as soon thereafter as conveniently may be, the committee of management for the said dispensary district shall be appointed in like manner for the ensuing year, and so likewise in each succeeding year.

8. ~~The guardians of the union shall, as soon after receipt of the said order as conveniently may be, provide a house, building, room or rooms, to be used as a dispensary or office for the medical officer of each such district, and for the meetings of the committee of management, and shall provide such medicines and medical appliances as may be necessary for the medical relief of the poor in the said district; and the committee of management shall appoint, from time to time, subject to the approval of the said commissioners, one or more medical officers for the said district, with such qualifications as the said commissioners shall determine, and with such salaries as the guardians, subject to~~

Election of
dispensary
committee.

Provision of
dispensaries
and medicines,
and appoint-
ment of
medical
officers.

Repealed

1948 C 3 (V.I.)

sch 80 Pt 2

~~the approval of the said commissioners, shall determine, and the said commissioners may, and they are hereby empowered, when they may see occasion, from time to time to regulate the amount of salaries or allowances payable to such officers respectively, and the time and mode of payment thereof; and it shall be lawful for the said commissioners to remove any such medical officer on sufficient grounds, and to direct the said committee of management to appoint another medical officer in his stead; and, on failure of the said committee to appoint a medical officer of such dispensary district for one month after the receipt of the direction of the said commissioners, it shall be lawful for the said commissioners to appoint such medical officer by an order under their seal.~~

Power to afford medical relief.

9. Every member of such dispensary committee, and every relieving officer and warden acting for an electoral division included in such dispensary district, shall have power to afford medical relief by the issue of a ticket for medicine and advice, or a ticket, in such form as the said commissioners shall prescribe, addressed to the medical officer of the district, directing him to afford medicine and advice to or attend any poor person resident therein; and it shall be the duty of the medical officer to afford medicine and advice, or to attend such poor person, as thereby directed: Provided always, that if any person who shall obtain a ticket for medical attendance from any relieving officer or warden, or from any member of the committee, shall, at the next or any subsequent meeting of the committee after the issue of the ticket, be declared by a majority of the members then present not to be a fit object for dispensary relief, the ticket shall be cancelled, and the holder thereof disentitled to further relief.

Provision now made for dispensary relief to cease after day named in order of commissioners.

10. From and after the day to be named as aforesaid in the order of the said commissioners declaring any dispensary district, all provision now made by law for affording dispensary relief from poor rate, or by means of presentment from the county cess, shall, except for the purpose of defraying expences incurred before such date, cease as to the baronies or portions of baronies or places included in such dispensary districts; and all funds and property derived or arising for the support of such institutions from bequests shall be applied to the support thereof according to the trusts on which such bequests were granted: Provided always, that . . . nothing herein contained shall be construed to deprive of the benefit of aid from any parliamentary grant any infirmary or hospital in the city or county of Dublin now receiving such aid, so long as such aid shall continue to be granted by Parliament.

Guardians and members of committee, &c. not to be concerned in supplying articles for use in dispensary, &c.

11. ~~No guardian or member of the committee of management, paid officer, or other person concerned in the providing, ordering, management, control, or direction of the medical relief of the poor in any dispensary district, shall, either in his own name or in the name of any other person, provide, furnish, or supply for his own profit any medicines, instruments, furniture, or goods~~

~~for the use of any dispensary in any district for which he shall act in any such capacity as aforesaid, during the time for which he shall retain such office, nor shall during such time be interested, directly or indirectly, in any contract relating thereto, under pain of forfeiting the sum of fifty pounds, with the full costs of suit, to any person who shall sue for the same by action of debt or on the case in any of her Majesty's courts of record at Dublin.~~

12. The said commissioners shall and may, and they are hereby directed, with all reasonable despatch after the first appointment of commissioners under the provisions of this Act, to frame general rules and regulations for the government of each dispensary district, and for the guidance and control of the guardians, the committees of management, and the several officers to be appointed in connexion therewith respectively, and shall be empowered to alter or revoke such rules and regulations, and make such new rules and regulations, from time to time, as they may think fit.

Regulations
for government
of dispensary
districts, &c.

[Ss. 13, 14 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

~~15. It shall be the duty of any salaried medical officer of a dispensary district under this Act, or (if more than one) then the nearest of such medical officers, save in the case of his sickness or necessary absence, and then the other nearest of such medical officers, without any further fee or reward, to examine and certify under the statute in that behalf as to the case of any dangerous lunatic brought before a justice of the peace, within his respective district, when summoned by such justice so to do, and also to give his medical attendance and care, so far as shall be necessary, to the prisoners or inmates in any bridewell or house of correction situate within such respective district, and to supply to such prisoners and inmates the necessary medicines; the account of which medicines shall be submitted to the next meeting of the committee of such respective district, who shall make provision for the payment thereof; and it shall be lawful for the said commissioners, if they shall think fit, to take into account the probable extent of such extraordinary duties with respect to any such bridewell or house of correction, in fixing the amount of the salaries of the medical officers of such districts.~~

Medical
officers of
districts to
examine dan-
gerous lunatics,
and give
attendance at
bridewells
within their
districts, &c.

Repealed

1948 C 3 (N)

S.L.R. 112

16. The commissioners or any one of them, and also any such inspector acting in execution of this Act, by summons under the seal of the commissioners, or under the separate hand and seal of any commissioner or inspector respectively, as the case may be, may require the attendance of all such persons as they or he shall think fit to call before them or any of them respectively upon any matter connected with the execution of this Act, relating to any dispensary subject under this Act to the authority of the said commissioners, at such time and place as shall be set forth in the summons, and may make inquiry and require returns, and may administer oaths, and examine all such persons upon oath, and may require and enforce the production

Commissioners
and inspectors
may require
attendance of
witnesses, &c.

upon oath of books, contracts, agreements, accounts, maps, plans, surveys, valuations, and writings, and copies thereof respectively, in anywise relating to any such matter as aforesaid; or when the commissioners, or any one of the commissioners, or any inspector, shall think fit, instead of requiring such oath as aforesaid, they or he may require any such person to make and subscribe a declaration of the truth of the matter respecting which he shall have been or shall be so examined: Provided always, that no person shall be required, in obedience to any such summons of any of the said commissioners, to go more than thirty statute miles from the place of his abode, or, in obedience to any such summons of an inspector, to go more than five miles from the place of his abode: Provided also, that nothing herein contained shall empower the commissioners or any commissioner or inspector to require the production of the title, or of any papers or deeds relating to the title of any lands, tenements, or hereditaments, not being property under the authority of or vested in the said commissioners by this Act: Provided also, that nothing herein contained shall authorize the said commissioners or any of them, or any such inspector, to exercise such powers of summons, inquiry, examination, or other such last-mentioned powers as aforesaid, in the case of any hospital, infirmary, or medical institution supported by private endowments, bequests, property, or subscriptions.

False evidence
and refusal to
give evidence,
&c.

17. Every person who, upon any such examination as aforesaid under the authority of this Act, shall wilfully give false evidence, or wilfully make or subscribe a false declaration, shall be deemed guilty of a misdemeanor; and every person who shall refuse or wilfully neglect to attend in obedience to any such summons as aforesaid of the commissioners, or any one of the commissioners, or any inspector, or to give evidence as aforesaid, or shall wilfully alter, suppress, conceal, destroy, or refuse to produce any books, contracts, agreements, accounts, maps, plans, surveys, valuations, or writings, or copies of the same, which may be required as aforesaid to be produced for the purposes of this Act, to any person authorized by this Act to require the production thereof, shall be liable to forfeit a sum not exceeding five pounds, to be recovered before any justice or justices at petty sessions under his or their warrant, by distress and sale of the goods of the party so offending, returning to such party the overplus.

Inspectors to
visit dispen-
saries and
attend meet-
ings of guar-
dians, &c.

18. Every inspector acting in execution of this Act shall be entitled to enter at all times into and to inspect every dispensary or building used for the purposes of this Act, and to attend the meetings of every board of guardians or dispensary committee on all business arising in the execution of this Act, and to take part in the proceedings, but not to vote at such meeting: and the said commissioners, or an inspector by their order in writing, shall be empowered (when they shall deem it expedient) to enter, inspect, and report upon any infirmary, hospital, or medical

institution supported in the whole or in part by any public funds, rates, or assessments.

[Ss. 19, 20 *rep.* 55 & 56 *Vict. c.* 49. (S.L.R.)]

21. In the interpretation of this Act . . . the word Interpretation.
 “medical” shall be construed to extend to and include the
 word “surgical,” unless there be something in the subject
 repugnant to such construction.

[S. 22 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXX.

AN ACT to alter and amend certain provisions of the Lands
 Clauses Consolidation Act, 1845, so far as relates to Ireland.^[1]
 [7th August 1851.]

[*Preamble.*]

1. In citing this Act in other Acts of Parliament, legal Short title.
 instruments, proceedings at law or in equity, and all other
 instruments and proceedings whatsoever, it shall be sufficient to
 use the expression “The Railways Act (Ireland), 1851.”

2. This Act shall apply to every railway in Ireland authorized Act to apply
 to be made by any Act passed in this session of Parliament, or to railways
 which shall hereafter be passed, and which shall authorize the authorized by
 purchase or taking of lands for such railway, and also to every Acts of this
 railway or portion of a railway in Ireland by any Act heretofore and future
 passed authorized to be made, in relation to which the compulsory sessions and
 powers for taking lands are still in force; and this Act shall be to those here-
 incorporated with and form part of the Acts authorizing the tofore autho-
 said undertakings: Provided always, that this Act shall not rized, with
 apply to the railways authorized to be made by the Waterford certain
 and Limerick Railway Amendment Act, 1850, the Dublin and exceptions.
 Drogheda Railway Act, 1850, the Dundalk and Enniskillen
 Railway Act, 1850, and the Midland Great Western Railway of
 Ireland (Deviation and Amendment) Act, 1850, the Waterford
 and Limerick Railway Deviation Act, 1851, and the Killarney
 Junction Railway Act, 1851, the Longford Line and Liffy Branch,
 13 & 14 Vict., or to which the provisions of such Acts respectively
 are applicable, and shall not in anywise interfere with or affect
 the provisions of such Acts.

3. The clauses of the Lands Clauses Consolidation Act, 1845, Certain provisions of
 with respect to the purchase and taking of lands otherwise than 8 & 9 Vict.
 by agreement, except sections sixteen and seventeen of the said c. 18. not
 Act, shall not be applicable or in force with respect to any to apply to
 railway or portion of a railway in Ireland to which this Act railways to
 applies. which this
 applies.

4. When and so often as any company authorized to make a Company to
 railway to which this Act applies shall require to purchase or deposit maps,
 take any lands which they are by the special Act authorized to schedules, and
 purchase or take, the company shall cause to be made out, and estimates at
 the office of

[¹ Short title, “The Railways Act (Ireland), 1851.” See s.1.]

Public Works,
and copies
thereof with
clerks of the
peace and
clerks of
unions.

8 & 9 Vict.
c. 18.

to be signed by their engineer and secretary, maps or plans and schedules of the lands so required (and for the purchase of which lands, or of all the several interests in which lands, the company shall not have contracted), and also of the works which the company propose to make and maintain for the accommodation of lands adjoining the railway (and for compensation in lieu of which the company shall not have contracted), together with the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands respectively, so far as the same can be reasonably ascertained, with estimates of the gross annual value and the value in fee of such lands so required to be purchased or taken as aforesaid, and for the purchase of which, or of all the several interests in which, the company shall not have contracted, and the separate and distinct value of each such interest which the company shall not have contracted to purchase, so far as the same can be reasonably ascertained (taking into consideration damage by severance, and any other matters by the Lands Clauses Consolidation Act, 1845, required to be considered, if necessary); and every such map or plan shall be upon a scale of not less than one inch to every two hundred feet; and all lands, buildings, yards and courtyards, and lands within the curtilage of any building, and ground cultivated as a garden, shall be marked thereon with distinct numbers corresponding with the numbers marked upon the parliamentary plans of the railway, and shall have put thereon a distinct valuation to each number; and all bridges, roads, and other works proposed to be made for the use and accommodation of the owners, lessees, and occupiers of the lands adjoining the railway shall also be marked on the said maps or plans; and the company shall deposit such maps or plans, schedules and estimates, at the office of the Commissioners of Public Works in Ireland, and a copy of such maps or plans, schedules and estimates, or so much thereof as relates to every county in or through which the railway is proposed to be made, with the clerk of the peace of each such county, ~~and a copy of so much of the said maps or plans, schedules and estimates, as relates to each electoral division in which any such lands shall be situate, with the clerk of the poor law union in which every such electoral division is situate.~~

Commissioners
of Public
Works to
appoint an
arbitrator, on
application of
company.

5. After such deposit at the office of the said commissioners as aforesaid, it shall be lawful for the said commissioners, upon the application of the company, to appoint an arbitrator between the company and the persons interested in the lands to which such maps or plans, schedules and estimates relate; and such arbitrator shall, in relation to the lands required and the works to be made and maintained by the company, as herein mentioned, be the arbitrator under this Act; and if any such arbitrator die, or refuse, decline, or become incapable to act, the said commissioners may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed.

Arbitrator
may call for

6. The arbitrator may call for the production of any documents in the possession or power of the company, or of any party

making any claim under the provisions of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under this Act, and may examine any such party and his witnesses, and the witnesses for the company, on oath, and administer the oaths necessary for that purpose.

documents,
and administer
oaths.

7. Before any arbitrator shall enter upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

Arbitrator to
make and
subscribe
declaration.

‘ I, A.B., do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Act [*naming this Act*].

‘ A.B. ,

‘ Made and subscribed in the presence of
And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

8. Upon the first appointment of an arbitrator as aforesaid, the said commissioners shall deliver to such arbitrator the maps or plans, schedules and estimates, deposited at their office as herein-before required; and the company shall forthwith after such appointment publish notice of such appointment, and of such deposits as herein-before directed with such clerk of the peace and ~~clerks of poor law unions~~ as aforesaid, once in the Dublin Gazette, and once in each of three successive weeks in some one and the same newspaper circulated in the county in which the lands are situate, stating the times and places of such deposits, and requiring all persons claiming to have any right to or interest in the lands required for the purposes of the railway, and specified in such maps or plans, or to have compensation for any injury to any lands injuriously affected by the execution of the works of the company, or to have any works made by the company for the accommodation of lands adjoining the railway, to deliver to the arbitrator, on or before a day fixed by the arbitrator and named in such notice, (and which day shall not be earlier than [¹ twenty-one] days from the date of the insertion of the last of such newspaper notices,) a short statement in writing of the nature of such claim; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place; and the company shall publish notice of such appointment in the Dublin Gazette.

Maps, &c.
deposited with
Commissioners
of Public
Works to be
delivered to
arbitrator.
Notice of
appointment
of arbitrator,
&c. to be
published.

9. The arbitrator shall, after the expiration of the period within which such claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the value of the lands required for the purposes of the railway, and

Arbitrator to
adjudicate
upon compen-
sation to be
paid for lands

[¹ Substituted for thirty-one by 23 & 24 Vict. c. 97. s. 1.]

and upon
accommodation
works.

Draft award to
be deposited
and notice to
be given
thereof, &c.

Meetings for
hearing objec-
tions to draft
award.

specified in such maps or plans, and the several interests in such lands, in respect of which no agreement shall have been come to between the company and the persons entitled thereto, and the purchase money to be paid for such lands, and the compensation to be paid for injury to any lands injuriously affected by the execution of the works of the company, and to inquire and determine what works should be made and maintained by the company for the accommodation of lands adjoining the railway; and the arbitrator shall, after due inquiry and examination, frame a draft award setting forth the price or compensation to be paid by the company in respect of the several interests in the lands so required and specified or injuriously affected, and the works to be made and maintained by the company for the accommodation of lands adjoining the railways; and where any inquiry relates not only to the value of the lands to be purchased, but also to compensation claimed for injury done or to be done to any lands held therewith, the arbitrator shall award separate and distinct sums to be paid for the purchase of such lands, or of any interest therein to which the inquiry may relate, and for the damage (if any) to be sustained by reason of the severing of the lands taken from the other lands, or otherwise injuriously affecting such other lands by the exercise of the powers of the company; and such draft award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as herein-before directed concerning the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the arbitrator shall cause notice of such award to be given to all persons entitled to payment or compensation under the same, or who shall have been heard before such arbitrator as claimants for compensation, and also shall cause notice to be published as herein-before directed concerning notice of the deposit of copies of the said maps or plans, schedules and estimates, or so much thereof as aforesaid, of the deposit of copies of such draft award, or so of much thereof as aforesaid, and shall in such notices appoint a time and place, or times and places for holding a meeting or meetings to hear objections against such draft award (the first such meeting to be not earlier than^{[1} fourteen] days after the last day of publication of the said notice), and shall hold such meeting or meetings accordingly, and thereat hear and determine any objections which may then and there be made to such draft award by any person interested therein, or adjourn the further hearing thereof, if the arbitrator see fit, to a future meeting, and may take any measures which he may deem proper for ascertaining the value of any such lands or interests as aforesaid, or the justice or propriety of any other matter of such draft award, and may from time to time, if he see occasion, appoint and hold further meetings for hearing and determining objections to such draft award, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed; and

when the arbitrator has heard and determined all such objections, and made such inquiries as he may think necessary in relation thereto, and made such alterations (if any) as he may deem proper in the draft award, he shall make his award under his hand and seal accordingly; and every such award shall be binding and conclusive, subject to the provisions concerning traverse hereinafter contained, upon all persons whomsoever; and no such award shall be set aside for irregularity in matter of form; and every such award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as hereinbefore directed with respect to the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the company shall thereupon publish notice, as hereinbefore directed concerning notice of the deposit of copies of such maps or plans, schedules and estimates, or of so much thereof as aforesaid, of the deposit of copies of such award, or of so much thereof as aforesaid, and requiring all persons claiming to have any right to or interest in the lands, the price or compensation to be paid in respect of which is ascertained by such award, to deliver to the company, on or before a day to be named in such notice (such day not being earlier than thirty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded; and such statement and abstract shall be paid for by the company.

Award to be final, and to be deposited, &c.

10. Provided always, that the arbitrator may make several awards, so as to include in a separate award the lands in each electoral division, or such portion of the lands in relation to which he is arbitrator as, having reference to the deposits to be made under this Act, the meetings to be holden, and the inquiries to be made in relation to such lands, and the convenience of the parties interested in the matter of the arbitration, he may think fit.

Separate awards may be made as to lands in the several electoral districts or otherwise.

11. Every clerk of the peace and clerk of any union is hereby required to retain the documents to be deposited with him under this Act in his custody, and to permit all persons interested to inspect the same, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided by the Parliamentary Documents Deposit Act, 1837.

Clerks of the peace and clerks of unions shall take charge of deposited documents. 7 Will 4. & 1 Vict. c. 83.

12. The salary or remuneration, travelling and other expences of the arbitrator, and all costs, charges, and expences (if any), which shall be incurred by the said Commissioners of Public Works in carrying the provisions of this Act into execution, shall be paid by the company; and the amount of such costs, charges, and expences shall from time to time be certified by the said commissioners, after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expences by or on behalf of the company; and it shall be lawful for the said commissioners from time to time to require the company to deposit in the Bank of Ireland, to the credit of the said

Expences of the arbitrator, &c. to be borne by the company.

commissioners any sum or sums of money, or to give such other security for the payment of any such costs, charges, and expences, as to the said commissioners shall seem fit; and every certificate of the said commissioners, certifying the amount of such costs, charges, and expences, shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expences; and the amount so certified shall be a debt due from the company to the Crown, and shall be recoverable accordingly.

Payment by
the company
of costs of
parties.

13. It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration; and the amount of the costs so certified shall be paid by the company; and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the company in respect of such claim before the commencement of the arbitration.

Certificates of
amount of
compensation
to be delivered
by company.

14. Within thirty days from the delivery of such statement and abstract as aforesaid to the company, the company shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate or interest claimed by him, deliver to such person, on demand, a certificate under the company's seal, stating the amount of the price or compensation to which he is entitled under the said award; and where more lands than are included in one number shall be claimed by the same person, such lands, or the interests therein, may be included in one certificate, if the company think fit, such certificates to be prepared by and at the costs of the company; and where any agreement has been entered into in respect to the value of the interest of any person in any lands, or his right to compensation, the company may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

Amount men-
tioned in cer-
tificates to be
paid to parties,
on demand,
&c.

15. The company shall, on demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases herein-after mentioned, the amount of monies specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns; and if the company wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the company in the Court of Queen's Bench in Ireland for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the company, authorized to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all monies payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and

in equity be taken as personal estate as from the time of the company entering on any such lands as aforesaid.

16. When and so soon as the company have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided in the cases herein-after mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the company, upon obtaining such receipt as herein-after mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

When amount mentioned in certificates is paid, company may take possession.

17. In every case in which any monies are paid by any company under the provisions of this Act for such price or compensation as aforesaid, the party receiving such monies shall give to the company a receipt for the same; and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such monies are paid, so as such receipt shall have an ad valorem stamp of the same amount impressed thereon in respect of the purchase monies mentioned in such certificate (but exclusive of the amount of compensation for damage by severance or other injury) as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the costs of the company.

Receipts duly stamped to operate as a conveyance.

18. If it appear to the company, from any such statement and abstract as aforesaid, or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest, in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the company, then and in every such case the amount to be paid by the company in respect of such lands, estate, or interest as aforesaid, shall be paid and applied as provided by the clauses of the Lands Clauses Consolidation Act, 1845, "with respect to the purchase money" or compensation coming to parties having limited interests, "or prevented from treating, or not making title."

Payment of monies where parties making claims are not absolutely entitled, or are under disability, or title is not satisfactorily deduced. 8 & 9 Vict. c. 18.

19. Where any person claiming any right or interest in any lands shall refuse to produce his title to the same, or where the company have taken possession of any lands under the provisions of this Act in respect of the price or compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the company taking possession, or if any party to whom any such certificate has been given or tendered refuse to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the company in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of Ireland, in the name and

Where parties refuse to show title or no claim is made, or parties refuse to accept the sum certified, money to be paid into the Bank.

with the privity of the Accountant General of the Court of Chancery in Ireland, in manner provided by the last-mentioned clauses of the Lands Clauses Consolidation Act, 1845; and the amount so paid into the said Bank shall be accordingly dealt with as by the said Act provided; . . .

Nothing to prevent company requiring further evidence of title, at their own costs.

20. Nothing herein contained shall prevent the company from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement herein-before mentioned, if they think fit; so as the same be obtained at the costs of the company.

Delivery of certificate, &c. may be enforced by application to Court of Chancery.

21. If from any reason whatever the company shall not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the company as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the costs and charges of the company, be enforced by any party or parties, by application to the High Court of Chancery in Ireland in a summary way by petition; and all other rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the company by such application as aforesaid.

[*S. 22-24 rep. 23 & 24 Vict. c. 97, ss. 2-4. S. 23 provided that money to be deposited in respect of lands should be paid into the Bank of Ireland in the name of the Accountant General of the Court of Chancery.*]

Company may deposit money in the Bank while the office of the Accountant General is closed.

25. If at any time the company be unable, by reason of the closing of the office of the Accountant General of the said Court of Chancery, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the Bank by way of security as aforesaid, it shall be lawful for the company to pay into the Bank, to such credit as aforesaid (subject nevertheless to being dealt with as herein provided), such sum of money as the company shall by some writing signed by their secretary or solicitors for the time being, addressed to the Bank in that behalf, request; and upon any such payment being made the cashier of the Bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant General's office, the solicitor for the company shall there bespeak the direction for the payment of such sum into the name of the Accountant General and upon production of such direction at the Bank of Ireland the money so previously paid in shall be placed to the credit of the said Accountant General accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the report office.

Parties dissatisfied with award, &c. may enter a traverse at assizes.

26. Where the party named in any certificate issued under the provisions herein-before contained of the amount of the price or compensation ascertained by any award under this Act (or any party claiming under the party so named) shall be dissatisfied with the amount in such certificate certified to be payable, and

where any party claiming any interest in any monies so paid into court as aforesaid shall be dissatisfied with the amount of the price or compensation in respect of which such monies shall be so paid into court, and where any party interested in land adjoining any railway shall be dissatisfied with any award under this Act, so far as respects any works for the accommodation of such lands thereby awarded to be made and maintained by the company, or which such party may claim to have so made and maintained, it shall be lawful for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the City of Dublin, in the term, next following the giving of such certificate or the payment of such money into court or (if the claim be only in respect of accommodation works) the making of the award, or, where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate or the payment of such money or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case may be), upon giving ten days notice in writing previously to such assizes or term respectively to the secretary of the company of the amount or the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim; and thereupon such traverse shall be tried in like manner, and like proceedings shall be had, and subject to like provisions, as far as the same can be applied, as in the case of traverses entered for damages under the Acts for consolidating and amending the laws relating to the presentment of public monies by grand juries in Ireland: Provided always, that the sum to be awarded or allowed as the costs, charges, and expences of the trial of every such traverse for damages shall in no case exceed the sum of twenty pounds; and further that no party shall have any other remedy for the purpose of impeaching the amount of any price or compensation ascertained by any such award as aforesaid, or the sufficiency of the accommodation works awarded thereby, other than by means of such traverse as aforesaid, anything in any Act to the contrary notwithstanding: Provided also, that the jury which shall try such traverse shall be sworn a true verdict to give, whether any and what damages will be sustained by the traverser, regard being had to the value of the lands of such traverser required, and to the injury to any lands of such traverser injuriously affected by the works of the company, or, (as the case may be) as to what accommodation works ought to be made and maintained by the company for the accommodation of the lands of the traverser, or to the like effect respectively, as the case may be.

27. The entry of the verdict of the jury in case of each traverse in the crown book shall be a final decision, and binding upon all parties interested, and shall have the effect of a judgment at law obtained in the Court of Queen's Bench in Ireland against the company, and may be enforced by like remedies against the company, as in the case of a judgment at law, by all

Verdict on traverse to have effect of judgment.

Damages to be in lieu of monies payable under the certificate and payment thereof to discharge the company.

parties interested therein; and in each case where a certificate shall have been delivered, such damages shall be taken and recovered in lieu of the monies expressed to be payable by the certificate, and which shall, on payment of the damages and any costs payable by the company, be delivered up to the said company, and such receipt for such damages shall be given as is herein-before provided in cases of payment of monies on such certificates as aforesaid; and where such damages shall be given in respect of any land, the amount of the price or compensation in respect of which, as ascertained by an award under this Act, shall have been paid into court, then, if the amount of such damages shall be less than the amount paid into court, the company shall, on a summary application by petition, be entitled to receive the difference between the amount of such damages and the amount of the sum paid into court, but if the amount of such damages shall exceed the amount of the monies paid into court, then the difference between the amount paid in and the damages shall, at the costs of the company, be paid into court; and the payment of such difference into court, and the payment of any costs payable by the company in respect of such traverse, shall be a good discharge to the company on any such verdict in the nature of a judgment as aforesaid

Act to include purchases for extraordinary purposes.

Incorporation of 8 & 9 Vict. c. 18.

Meaning of "the company."

Extent of Act.

28. The provisions of this Act shall extend to the purchase by the company of lands for extraordinary purposes.

29. All the provisions of the Lands Clauses Consolidation Act, 1845, shall, subject to the provisions herein contained, extend to and be taken as part of this Act, except so far as the same are inconsistent therewith.

30.^[1] In the construction of this Act this words "the company" shall mean the company constituted by the special Act.

31. This Act shall extend to Ireland only.

[S. 32 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

CHAPTER LXXXI.

AN ACT to authorize the removal from India of Insane Persons charged with Offences, and to give better Effect to Inquisitions of Lunacy taken in India.^[2] [7th August 1851.]

[*Preamble.*]

Power to remove from India to the United Kingdom persons acquitted of crimes or not tried on the ground of insanity.

1. If any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person

^[1] The expression "company" is further defined for the purposes of this Act by 27 & 28 *Vict. c.* 71. s. 13.]

^[2] Short title, "The Lunatics Removal (India) Act, 1851." See 55 & 56 *Vict. c.* 10.]

or persons administering the government of the presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order of her Majesty concerning his or her safe custody, and to give such directions for enabling such order to be carried into effect as may be deemed fit and proper.

2. The orders and directions of the said government of any of the said presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant and authority to all commanders of vessels and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions, and for his detention in custody there until an order shall be made by her Majesty as herein-after is mentioned; and upon the arrival of any such person in the United Kingdom it shall be lawful for her Majesty to give such order for the safe custody of such person during her pleasure in such place and in such manner as to her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of his late Majesty King George the Third, intituled "An Act for the safe custody of insane persons charged with offences."

Order of government of any presidency to be a sufficient warrant for removal.

Order for custody on arrival in United Kingdom.

39 & 40 Geo. 3. c. 94.

3. All expences attending the removal from India and the safe custody and maintenance in Great Britain or Ireland of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are hereby authorized to charge the amount of such expences upon the revenues of the government of India.

Expences of removal.

4. The amount of all expences incurred by the East India Company in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company; and for securing the payment thereof the East India Company shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expences incurred and to be incurred in respect of the matters aforesaid, and the costs of ascertaining the same as after mentioned; and on production at the office in Edinburgh for the registration of writs in the books of council and session of a copy of any order of the court of directors directing such judgment to be entered up, certified by the secretary of the said company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and decree shall be interposed thereon, which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due; and upon

Expences to be a debt due from the lunatic to the E. I. Company.

application to be from time to time made to the Lord Chancellor of Great Britain in England or Chancellor in Ireland, being intrusted with the care of persons of unsound mind, or the Court of Session in Scotland, the amount of such expences reasonably and properly incurred shall be ascertained by a reference to one of the masters of the Court of Chancery, or by a remit to the accountant of the Court of Session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct; and the East India Company shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England or Ireland, and registered order and decree in Scotland, and enforcing the same against the property but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been entered up at the date of such order, or as if such bond had been granted by the debtor when of sound mind at the date of such order, and had been duly registered in the books of council and session, and a decree of the Court of Session interponed thereto.

Lunatics and idiots may be removed from India to the United Kingdom by orders of the supreme courts.

5. In all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind shall have been or shall be appointed by the Supreme Court of Judicature at any of the presidencies of India, it shall be lawful for such supreme court to declare that such person ought to be removed from India to any part of the United Kingdom, and thereupon to make such further or other order or orders authorizing or directing his removal, and touching his safe custody and maintenance, as to such supreme court shall seem fit and proper: Provided always, that in every such case a transcript of the proceedings in the matter of the idiocy or lunacy of such person shall, under the provisions herein-after contained, be transmitted to that part of the United Kingdom to which such person shall be removed.

Transcript of proceedings to be transmitted to the United Kingdom and entered of record, and to be acted upon as if the proceedings had been taken in the United Kingdom.

6. In all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind shall have been or shall be appointed by any of the supreme courts in India as aforesaid, it shall be lawful for the proper officer of the said supreme court by the order of such court to transmit a transcript, under the hand and seal of the chief justice or senior judge of such supreme court, of the proceedings by which the idiocy, lunacy, or unsoundness of mind shall have been found, and by which such guardian, keeper, or curator shall have been appointed, to the Chancery in England and the Court of Session in Scotland and the Chancery of Ireland respectively, as the case may require; and such transcript, when so received, shall be entered as of record in the court or courts to which the same shall be transmitted; and in the case of any supersedeas of any such proceedings, the same shall be

certified and transmitted and recorded in like manner; and the record of any such proceedings or of any such supersedeas as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons intrusted as aforesaid, or the Court of Session in Scotland, or the Chancellor of Ireland intrusted as aforesaid, (as the case may require,) shall respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland respectively; and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid, the Court of Session in Scotland, and the Chancellor of Ireland intrusted as aforesaid respectively, from time to time to make and give all such orders and directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind.

7. The powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for the time being intrusted as aforesaid; and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland, or any other person or persons for the time being intrusted as aforesaid.

Powers of Lord
Chancellor.

CHAPTER LXXXIII.

AN ACT to improve the Administration of Justice in the Court of Chancery and in the Judicial Committee of the Privy Council. [7th August 1851.]

[*Preamble.*]

[*Whole Act except Ss. 16, 18, 21, rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 21 rep. 56 & 57 Vict. c. 54. (S.L.R.)*]

16. [*Repeal of 3 & 4 Will. 4. c. 41. s. 5.*] No matter shall be heard, nor shall any order, report, or recommendation be made, by the Judicial Committee, in pursuance of any Act, unless in the presence of at least three members of the said committee, exclusive of the Lord President of her Majesty's Privy Council for the time being.

Quorum of
Judicial Com-
mittee.

* * * * *

Salary of the Master of the Rolls.

18. . . . there shall be paid, for the salary of the Master of the Rolls for the time being, . . . the annual sum of six thousand pounds, free and clear from all taxes and deductions.
* * * * *

CHAPTER LXXXV.

AN ACT further to amend an Act of the Sixth Year of King William the Fourth, to consolidate and amend the Laws relating to the Constabulary Force in Ireland.[¹] [7th August 1851.]

[*Preamble recites 6 & 7 Will. 4. c. 13.*]

Power to appoint paymaster and storekeeper.

1. [*Discontinuance of offices of paymaster, storekeeper, and clerk under recited Act, rep. 38 & 39 Vict. c. 66. (S.L.R.)*] Provided always, that it shall be lawful for the Lord Lieutenant with the consent of the Treasury, at any time hereafter to appoint a paymaster and storekeeper for the depôt of the reserved force of the said constabulary force, with such salary as the Treasury may think fit, and to be paid in like manner as any officers of the said reserved force.

Rules as to the performance of duties heretofore required from the paymasters, &c.

2. [*Recital.*] It shall be lawful for the Treasury from time to time to make rules and regulations with respect to the several duties (save as herein-after provided) by the said recited Act, and the Acts amending the same, required to be performed by such paymasters, storekeepers, and clerks as aforesaid, and with respect to the performance of the said duties, and with respect to the persons belonging to the said constabulary force, who shall henceforth perform the said duties heretofore performed by such paymasters, storekeepers, and clerks.

The receiver of the constabulary force to transmit to the secretaries of grand juries, to be laid before the special roads sessions, accounts of sums chargeable on counties, &c.

3. [*Recital of 6 & 7 Will. 4. c. 13. s. 51; 2 & 3 Vict. c. 75. s. 19; 11 & 12 Vict. c. 72. s. 8.*] . . . the receiver of the constabulary force shall transmit or cause to be transmitted an account of all such sums (and such sums only) as are chargeable on each county, county of a city, or county of a town, under the provisions of the Acts relating to the said constabulary force, to the secretary of the grand jury of such respective county, county of a city, or county of a town to which the same shall relate; and the same shall be by him laid before the magistrates at the special road sessions next preceding the next assizes, who shall inspect the same; and the chairman of such special road sessions shall transmit each such account to the inspector general of the said constabulary force, with such remarks thereon as such special road sessions shall think fit to be made; and each such account so transmitted to the said inspector general shall be dealt with by him in like manner and subject to like provision as the half-yearly accounts heretofore laid before and transmitted from such special road sessions to the said inspector general

[¹ Short title, "The Constabulary (Ireland) Act, 1851." See 55 & 56 Vict. c. 10.]

under the provisions of the said Acts ; and such certificate shall be prepared and transmitted by the said inspector general or a deputy inspector general as by the said Act of the eleventh and twelfth years of her Majesty is provided.—

11 & 12 Vict.
c. 72.

4. [*Recital and repeal of 2 & 3 Vict. c. 75. s. 30.*] In every case where any expences shall have been actually incurred or shall be proper to be incurred by any county inspector, sub-inspector, head or other constable, gaoler, ~~bridewell keeper~~, or other person in conveying any prisoner to or from any county gaol or bridewell or house of correction, or other place, or for examination before any justice or coroner in Ireland, or to or from any assizes or sessions or other place in Ireland, or from any county gaol or bridewell or other place to a district lunatic asylum in Ireland, or in the pursuit of any person charged with the commission of any offence in any part of Ireland, to whatever place in the United Kingdom of England, Ireland, and Scotland, or elsewhere, he may have escaped, or to which there shall be reasonable and probable grounds for supposing he has escaped, or in the conveyance of any witnesses for examination before a justice or coroner, or to any assizes or quarter sessions, or in the conveyance of any stolen property to any assizes or sessions by order of any justice or other lawful authority, or in attending at any assizes or sessions out of his proper county to prosecute any offence committed within the county where he shall so attend for such purpose, it shall be lawful for the justice or other authority before whom any such prisoner or witness shall be taken, or under whose authority any such officer, constable, or other person shall have acted, or for any justice of the county or place wherein the offence shall be charged to have been committed, to deliver to such officer, constable, or other person a certificate in writing that he is entitled to his expences to such extent as such justice shall think reasonable and necessary, and also to his expence of returning again ; and ~~all such expences as aforesaid~~ shall be defrayed by the sub-inspector of constabulary of the county and district in which the offence shall be charged to have been committed, or from which (in the case of a lunatic) such lunatic shall have been so conveyed, out of any funds in his hands applicable to the maintenance of the said constabulary force ; and the several sub-inspectors of the constabulary force in each county shall transmit once in each month to the county inspector accounts duly vouched of the expences so incurred as aforesaid chargeable on such county, county of a city, or county of a town ; and such county inspector shall certify to the best of his knowledge and belief as to the accuracy of such accounts, both as regards the number of officers or men of such constabulary force employed in such service, and the time they were so employed, and also as regards any extra pay to which any such officers or men are entitled under the regulations of the said force, and also as regards any other charge made in such account ; and such accounts, when so certified, shall be transmitted

Expences of prosecutions, &c. to be paid by sub-inspector of constabulary in the first instance, or presentments to be made accordingly.

S.L.R.
1954.

by such county inspector to the board of superintendence of the county gaol of the county, county of a city, or county of a town for which he shall act; and such board of superintendence are hereby empowered and required, without any unreasonable delay, to examine such accounts; and upon being satisfied of their reasonableness and accuracy, they are hereby empowered and required either to pay the same out of any funds under their control, or to grant an order or orders, signed by any two or more members of such board, directed to the county treasurer or finance committee, as the case may be, requiring him or them to pay to the respective sub-inspectors therein named the several sums payable to them upon such accounts; and each such board of superintendence shall and they are hereby required before each assizes or presenting term to prepare an estimate of all such sums as they shall deem to be necessary to cover the said expences as aforesaid for such county, county of a city, or county of a town, for the ensuing half year, or for the ensuing year in the case of the county of Dublin, and shall cause the same to be laid before such respective grand jury at the assizes or presenting term; and each such grand jury shall and they are hereby required to present the sum specified in such estimate to be raised from the county at large, county of a city, or county of a town, as any other sums presented at such assizes or presenting term; which sums, when so raised, shall be applicable to the payment of the orders made as aforesaid for the payment of such expences; and if the sums so raised as aforesaid shall prove insufficient, the said treasurer or finance committee shall apply to such payments any other available funds in his or their hands; and in the case of any such monies not being duly paid as aforesaid, and also in the case of monies advanced by the receiver of the constabulary force, or other person, by the authority of the chief or under secretary of the Lord Lieutenant, or the inspector general of the said constabulary force, for the pursuit or apprehension of any person charged with the commission of any offence as aforesaid, the amount of the monies so unpaid as aforesaid, and also the amount of the expences incurred in such pursuit or apprehension, shall be included in the certificate which the said inspector general is required to make of the expences of the constabulary force chargeable on the respective counties, counties of cities, or counties of towns; and the same shall be dealt with, presented, and paid as any other sums included in such certificate: Provided always, that a statement of the items of account of expences so chargeable shall be transmitted to such grand jury, together with such certificate— . . .

[S. 5 rep. 41 & 42 Vict. c. 79. (S.L.R.)]

Incapacitated
persons, &c.,
may grant
leases of lands
for the use of

6. [*Recital.*] It shall be lawful for all bodies politic, corporate, and collegiate, corporations aggregate or sole, tenants in tail or for life, or for any other partial or qualified estates or interests, husbands, guardians, trustees and feoffees in trust for charitable

or other purposes, committees, executors or administrators, and all trustees and persons whomsoever, not only for or on behalf of themselves, their heirs or successors, but also for or on behalf of the person or persons entitled in reversion, remainder, or expectancy after them, if incapacitated, and for and on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, idiots, feme covert, or other person or persons, and to and for all feme covert, who are or shall be seised, possessed of, or interested in their own right, or entitled to dower or other interest in the same, and for all and every other person or persons whomsoever, who is or are or shall be seised, possessed, or interested in any lands, tenements, or hereditaments, from time to time to grant or demise to the receiver appointed or to be appointed under the said recited Act, or any Act amending the same, or to any person or persons to be nominated by him for the purpose, but in trust for her Majesty, and for any term of years whatsoever, or other term, any house or houses not being the mansion house of the respective party, or belonging thereto, or any portion of ground not being the garden, yard, lawn, or park belonging to such mansion house, and not exceeding one acre, for the purpose of the same being occupied, used, or built upon for the use or accommodation or for the purposes of the said constabulary force, every such grant or demise to be made at such annual rent as may be agreed on by or on behalf of the inspector general of the said force, and to be reserved to the owner of the immediate reversion in such house, houses, or land for the time being expectant on such term.

CHAPTER LXXXVII.

AN ACT to regulate certain Proceedings in relation to the Elections of Representative Peers for Scotland.^[1]

[7th August 1851.]

WHEREAS it is expedient to provide a manner in which the death of a representative peer for Scotland may be certified to her Majesty, in order that her Majesty may direct a proclamation to be issued for the election of another peer of Scotland in the room of such peer deceased :

1. A certificate under the hands of any two peers of Scotland, who shall be at the time of their signing such certificate either representative peers, or shall have voted at former elections of a representative peer or peers for Scotland without protest having been made to the reception of their votes, according to the provisions of the Representative Peers (Scotland) Act, 1847, or having been so protested against shall have established their right to vote in respect of their peerages, shall be held to be formal and sufficient evidence of the death of such peer for the purpose of issuing such proclamation as aforesaid.

Certificate from two peers of Scotland to be formal notice of the death of any representative peer.
10 & 11 Vict. c. 52.

^[1] Short title, "The Representative Peers (Scotland) Act, 1851." See 55 & 56 Vict. c. 10.]

6 Ann. c. 78
s. 2.

Proclamations
for elections
to be published
not less than
10 days nor
more than 25
days pre-
viously.

2. [*Recital refers to proclamations issued for elections of peers under 6 Ann. c. 78. s. 2.*] All such proclamations shall be published ten days at least before the time therein appointed for the meeting of the peers to proceed to such elections; and the time to be appointed in any such proclamation for such meeting shall not be later than twenty-five days from the date of such proclamation.

[S. 3 rep. 15 & 16 Vict. c. 35. s. 1.]

Titles of peer-
ages in right
of which no
vote has been
received for
fifty years to
be transmitted
to the clerk of
the Parlia-
ments, and not
to be called at
elections, &c.
if the House
of Lords shall
so direct.

4. [*Recital of 10 & 11 Vict. c. 52. s. 1.*] After every meeting of the peers of Scotland assembled under any royal proclamation for the election of a peer or peers to represent the peerage of Scotland in Parliament, the Lord Clerk Register, or the clerks of session officiating thereat in his name, shall transmit to the clerk of the Parliaments the titles of any peerages called at such meeting in right of which no vote shall have been received and counted for fifty years then last past or for any longer period; and on receiving an order from the House of Lords to abstain from calling such title at future meetings for such elections it shall not be lawful for the said Lord Clerk Register or clerks of session to call such title at any subsequent meeting, or to administer the oaths to any person claiming to vote in right of such peerage, or to receive and count the vote of any such person, or to permit any such person to take part in the proceedings of any such election, until otherwise directed by order of the House of Lords.

CHAPTER LXXXVIII.

AN ACT for amending the several Acts for the Regulation of Attornies and Solicitors. [7th August 1851.]

[*Preamble recites 1 & 2 Geo. 4. c. 48; 3 Geo. 4. c. 16; 6 & 7 Vict. c. 73; 8 & 9 Vict. c. 66.*]

[*Whole Act except s. 4. rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 2 provided that persons who have attended prescribed lectures and passed prescribed examinations in University of Dublin or any of the Queen's colleges for two collegiate years, and have served as clerks for four years, may be admitted as solicitors.*]

Certificate of
Dublin Uni-
versity, or of
any of the
Queen's
colleges to be
sufficient evi-
dence of at-
tendance at
lectures and
passing of
examination

4. Provided always, that the court or other sufficient authority in Ireland, to whom any such student shall apply to be admitted as an ~~attorney or~~ solicitor, shall receive the certificate of the Vice Chancellor of the University of Dublin, or such other certificate as shall be appointed by the board of senior fellows of the said university, or of the dean of the faculty of law for the time being of any of the said Queen's colleges, as sufficient evidence of the student named in such certificate having duly attended the prescribed lectures, and passed the prescribed examinations of the

professors of the faculty of law in such college for the said period of two collegiate years, and of the time of the commencement of the attendance of such student upon such lectures.

CHAPTER XC.

AN ACT for the better Collection of Fines, Penalties, Issues, Amerciaments, and forfeited Recognizances in Ireland.[¹]

[7th August 1851.]

WHEREAS it is expedient to make provision for the better collection and application of fines, penalties, issues, amerciaments, and forfeited recognizances in Ireland :

1. The proper officers to make entries and render accounts of all such penal sums as aforesaid for the several courts by which such penal sums shall be ordered to be paid shall be the several officers or persons herein-after mentioned ; viz.

Officers who shall enter and account for fines, &c.

1. The clerk of the Crown for the Crown side of the Court of Queen's Bench and for the Crown court at assizes ;
2. The clerk of the rules for the Courts of Common Pleas and Exchequer, and for the civil side of the Court of Queen's Bench, and for the civil court at assizes ;
3. The clerk of the peace for quarter sessions ;
4. The chief clerk or such other other clerk as shall be deputed by the justices for that purpose for each divisional police office of Dublin Metropolis ;
5. The clerk of petty sessions for each petty sessions ;
6. And the person at any other court whose duty it shall be to attend and make entries of the proceedings :

And the provisions herein-after contained shall severally apply to such respective officers and persons, or their legally authorized deputies, (if any,) as fully as if the more particular designation of each of such officers, persons, or deputies was repeated in each provision.

2. Whenever an order shall be made by any court or other authorized person for the imposition or levy of any such penal sum as aforesaid, the said officer of the court shall proceed as follows :

Entry of fines.

1. He shall forthwith enter the particulars of the said order in a book (form A.) to be by him kept for that purpose, and shall afterwards from time to time make such further entries in the said book as may be necessary for the purpose of accounting for the said sums :
2. In every case where a fine shall be imposed upon any person for non-attendance as a juror, he shall, within fourteen days after the end of the term, assizes, quarter sessions, or sittings of the court at which such fine shall have been imposed, send a notice by post to such person,

All fines, &c. to be entered in a book.

In case of fines upon jurors, officer to send notice.

[¹ Short title, "The Fines Act (Ireland), 1851." See s. 20.]

addressed to his usual place of residence, informing him of the imposition of such fine, and that if not paid within thirty days from the date of such notice a warrant will be issued for the levy of the same :

Judge's register to certify fines to clerk of rules for entry.

And in order to enable the clerk of the rules of the superior courts the better to discharge the duty required of him under this Act, the judge's register or other person who shall act as clerk at nisi prius at the nisi prius sittings of any of the said superior courts or in the civil court at assizes, shall, within seven days after the termination of the said nisi prius sittings or of the said assizes, as the case may be, certify under his hand to the clerk of the rules of the superior courts in which the proceedings in the case shall have been had, the particulars of any penal sum which shall have been imposed or ordered to be levied by the said court in such case ; and said certificate shall be a sufficient authority to the said clerk of the rules to do all acts for the entry and levy of the same which he could or ought to do in case such penal sum had been imposed or ordered to be levied by such superior court.

Issue of Warrants.

Warrants for the execution of orders to be issued at certain periods.

3. In all cases where an order shall have been made for the imposition or levy of any such penal sum as aforesaid, the court, or the justice, or the officer competent so to act, as the case may be, shall (unless where the same shall have been remitted by the Crown or other proper authority) issue the proper warrant for the execution of such order at the following periods ; viz. :—

1. In case of any fine imposed upon any person for non-attendance as a juror, within one week from the expiration of thirty days after notice of same shall have been sent to such person by post as herein-before directed :
2. In case of any order for the imposition or levy of any such penal sum by the justices of the divisional offices of police of Dublin Metropolis, within one week from the making of such order :
3. In case of any like order by a justice at or out of petty sessions, at such time as shall be directed by the Petty Sessions Act, Ireland, 1851 :
4. In all other cases, within fourteen days from the making of the order :

14 & 15 Vict.
c. 93.

Form, &c. of warrant.

And it shall be lawful for the court or officer by whom any such warrant shall be issued to use the like form of warrant as is authorized by the said Petty Sessions Act for any warrant of distress issued by a justice at petty sessions, and also to direct by such warrant that in default of distress for the sum therein directed to be levied, the person against whose goods such warrant shall be issued shall be committed to gaol for the like period for which any person might be imprisoned in any like case in default of distress under the provisions of the said Petty Sessions Act : Provided always, that no warrant or process shall be issued to

any sheriff to levy the amount of any forfeited recognizance, or of any other fine or penalty whatsoever, but only to the constabulary or Dublin metropolitan police, as the case may be :

4. The manner in which warrants issued to the constabulary or Dublin metropolitan police for the levy of any penal sums under this Act shall be addressed shall be subject to the following provisions :

*Addressing
warrants.*

*Addressing
and executing
warrants
issued to con-
stabulary or
Dublin police.*

1. All such warrants for the levy of any such penal sums as aforesaid (not being issues) ordered to be levied by any of the superior or other courts within the police district of Dublin Metropolis, (other than the divisional police offices,) shall be addressed to the Commissioners of Metropolitan Police :
2. All such warrants issued from the said divisional police offices shall be addressed to the office sergeant, or such other member of the said police force as the said commissioners shall appoint for that purpose :
3. All such warrants issued from any court in Ireland, not being within the police district of Dublin Metropolis, shall be addressed to the sub-inspector of constabulary who shall act for the place in which such court shall be situated :
4. All such warrants issued by any justice or justices out of quarter sessions shall be addressed as required by the said Petty Sessions Act :

And the several provisions of the said Petty Sessions Act as to the certifying, indorsing, executing, or returning any warrant issued by a justice at petty sessions, and as to the selling of any distress or otherwise acting thereunder, shall also apply to any like warrant issued by any court officer, or divisional justice under the provisions of this Act, and to the selling of any distress or otherwise acting thereunder ; and in the application of the said provisions of the said Petty Sessions Act to any such warrants issued within the said police district of Dublin Metropolis, whatever may be done by any head or other constable in executing any warrant addressed to any sub-inspector shall and may be done in any like case by any member of the said police force (to be named by the said commissioners or divisional justices) in executing any such warrant, addressed either to the said commissioners or to any other member of the said police force ; and whatever may be done by any sub-inspector in certifying any warrant to the inspector general of constabulary may be done by the office sergeant or other member of the said police force to whom such warrant shall be addressed, in certifying the same to the said commissioners ; and whatever may be done by the said inspector general, or by either of the deputy inspectors general of constabulary, in indorsing any warrant certified by any sub-inspector, may be done by the said inspector or deputy inspector general in indorsing any warrant which shall be so

14 & 15 Vict.
c. 93.

certified to the said commissioners, or which shall be addressed to the said commissioners in the first instance; provided that such warrant shall have been first indorsed by one of the said commissioners, and then transmitted by them to the said inspector general.

Collection of fines.

5. The manner in which all such penal sums as aforesaid shall be collected shall be as follows :

Fines, &c. if levied under warrants, to be paid over to officer of court.

1. In every case where any such sums shall be levied under a warrant, the sub-inspector or the said commissioners or office sergeant, as the case may be, to whom the said warrant shall be addressed, transmitted, or indorsed for execution, as herein-before provided, shall either pay over the amount direct to the said officer of the court from which the said warrant was issued, or shall transmit the same to the said officer through the person to whom the said warrant was addressed in the first instance, according as he shall be directed by the chief ~~or under~~ secretary to the Lord Lieutenant :

If paid to gaoler, to be paid over within a certain period to officer of court. Board of superintendence or justices to compare receipts and warrants with the gaol books.

2. In every case where such sums shall be paid to the keeper of any gaol or bridewell, he shall indorse on the warrant of committal the amount and date of payment, and shall within fourteen days, or within such other period as the chief ~~or under~~ secretary shall direct, pay over the amount to the said officer of the court from which the warrant was issued ; ~~and the board of superintendence shall at least once in every month in the case of each gaol, and the justices of the petty sessions district shall at least once in every three months in the case of each bridewell, and any other person or persons duly authorized by the said chief ~~or under~~ secretary in that behalf shall at any other times, examine the prison books, and shall require to see the receipt of the officer of the court from which the warrant was issued, in each case in which it shall appear that the person committed was discharged before the expiration of the period for which he was committed, and shall also compare the sum mentioned in such receipt with the amount in the warrant of committal, and shall certify in the said books that such receipt has been produced to him or them, and that such sums correspond, or otherwise, as the case may be :~~

Officer to receive all fines and give receipts.

3. In every case where any such penal sums shall be paid in court or to the said officer of the court (before the issue of a warrant), or shall be so paid over or transmitted to the said officer of the court (after the issue of a warrant), he shall receive the same, and shall at the time deliver or transmit a receipt for the same in the form (B. a. or b.) to the person by whom the same shall be so paid or transmitted :

4. The said officer shall out of the sums so received pay to the several parties such portion of the same as shall have been awarded to them by the court, and which shall be claimed by them either in court or at the public office of the said officer, taking from each of such parties a receipt for the same in the form (B. c.):

Officer to pay parties to whom portions of fines have been awarded.

And it shall not be lawful for any person, other than the said officers herein-before mentioned respectively, or their lawfully authorized deputies, if any, save the person to whom any warrant shall be delivered for execution, or the keeper of any gaol or bridewell to which the defendant shall be committed, as the case may be, to receive any such penal sum as aforesaid, or any part of the same; and if any other officer or person than the several officers or persons herein-before mentioned respectively shall take or receive any such sum, or any part of same, from the person by whom the same shall be ordered to be paid, he shall, on conviction thereof before any two justices of the county sitting in petty sessions, forfeit and pay for every such offence any sum not exceeding ten pounds.

Penalty on any persons but the proper officers or their legal deputies for receiving fines, &c.

6. The manner in which all such penal sums as aforesaid shall be accounted for shall be as follows:

Accounts of fines.

1. It shall be lawful for the said chief ~~or under~~ secretary to make such general regulations as shall seem expedient for carrying into effect the provisions of this Act, for the better collection of all said sums, and the regular accounting for the same by all persons into whose hands the same shall come; and such persons shall keep and render account of said sums in such forms, and shall pay over said sums, and transmit for examination said warrant or receipt, at such times and in such manner as shall be directed by such general regulations, or as shall be at any time specially required by the said chief ~~or under~~ secretary; and it shall also be lawful for the said chief ~~or under~~ secretary to make such general regulations as shall seem expedient for the examination, checking, or countersigning of any of such accounts by any of the sub-inspectors, inspectors, or other members of the constabulary or police forces, as the case may be:

Chief or under secretary may make general regulations as to accounts.

2. And to every such account shall be annexed a declaration in writing under the hand of the said officer, to be made before a justice, affirming the truth and accuracy of such account; and every such officer who shall make any such declaration, knowing the said account to be false in any particular, and being thereof convicted, shall, in addition to any penalty to which he may be liable under the provisions of this Act herein-after contained, be also liable to the penalties of wilful and corrupt perjury:

Declaration that accounts are correct.

And if default shall at any time be made by any such officer or person in paying over any balance on such accounts, or any of

Mode of enforcing payment of

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balances or
sums.

such penal sums received by him; at such times as the said chief ~~or under~~ secretary shall direct, it shall be lawful for the said chief ~~or under~~ secretary to certify such default to any two justices of the county, who shall thereupon issue the proper warrant for the levy of such balance or sums as shall have been so certified to be due by such officer or person, by distress and sale of his goods and chattels.

Mode of ac-
counting by
officers not
being officers
of courts of
justice.

7. In every case in which a fine shall not be imposed by any court of justice, but by some public officer or person legally authorized in that behalf, such officer or person shall make such entries and render such accounts of same, and shall pay over such fine or balance of fines, according to law, in such manner and at such times, as the said chief ~~or under~~ secretary shall from time to time direct and require.

Penal clause.

Penalties for
non-observance
of provisions
of Act;

8. Any of the officers or persons herein-after mentioned who shall commit any of the offences or neglects herein-after mentioned, and who shall be convicted thereof before any two justices of the county sitting in petty sessions, or at one of the said divisional police offices, shall be liable to forfeit for every such offence or neglect any sum not exceeding twenty pounds; (that is to say,)

On officers of
court not ac-
counting, &c.:

1. Any such officer or person who shall at any time make default in making true and correct entries of all such penal sums as aforesaid, or in rendering due accounts of all such sums passing through his hands, or in paying over the same, at such times and in such manner as shall be required under the provisions of this Act:

On constabulary or metro-
politan police
not account-
ing, &c.:

2. Any member of the constabulary or metropolitan police forces by whom any warrant shall be executed, who shall neglect to pay over the amount received or levied thereunder, or to account for such levies, at such times and in such forms and with such vouchers as shall be required under the provisions of this Act:

On keepers of
gaols not ac-
counting, &c.:

3. Any keeper of any gaol or bridewell who shall neglect or refuse to pay over any sum so as aforesaid received by him to the officer of the court from which the warrant shall have been issued, or to transmit any such receipts or warrants, or to account for the same, at such time and in such manner as shall be required under the provisions of this Act:

On officers,
&c. neglecting
duty.

4. Any such officer or person as aforesaid, or any other person, having any duty to perform under the provisions of this Act, who shall wilfully neglect or refuse to perform the same:

And the said justices sitting as aforesaid are hereby authorized to impose the said penalties; and a certificate by the said chief ~~or under~~ secretary of such neglect or refusal shall be *prima facie* evidence of the same in any such proceeding before such justices.

9. It shall be lawful for any person against whom any order shall be made for payment of any such penal sum as aforesaid by any such court or officer as aforesaid, exceeding the sum of forty shillings, ~~and in cases of fines upon jurors whatever the amount may be,~~ to appeal for the reduction or remission thereof by petition to the court of assizes which shall be held next after such order shall be made if the same shall be made at assizes or to one of the superior courts of law in Dublin at the next term if the same shall be made by a superior court, or to the court of quarter sessions of the county which shall be held next after such order shall be made if the same shall have been made at quarter sessions, or to the recorder of Dublin at his next sessions if the same shall have been made at any of the divisional police offices of Dublin Metropolis, or to the next quarter sessions to be held in the same division of the county where the order shall be made by any justice or justices in any petty sessions district, or to the recorder of any corporate or borough town where the order shall be made by any justice or justices in such corporate or borough town (unless when any such sessions shall commence within seven days from the date of any such order, in which case it may be made to the next succeeding sessions to be held for such division or town); and such appeal, when made against any order by the said divisional justices or by any other justice upon summary conviction, shall be subject in all respects to the provisions of the said Petty Sessions Act, but in every other case it shall be made by petition to the court which shall have power to entertain the appeal, and shall be subject to the provisions following:

1. The person so entitled to appeal shall not exercise such right unless he shall enter into a recognizance (form C.), with two sureties, in double the amount of the sum ordered to be paid, before any justice, conditioned for the due prosecution of such appeal, and unless he shall also lodge with the officer of the court a certificate (form D.) under the hand of the justice by whom such recognizance shall have been taken, and which certificate any such justice is hereby required to give, that such person has duly entered into such recognizance:
2. In every case where such certificate shall be so lodged with the said officer, he shall suspend the issue of any warrant to execute the said order until such appeal shall have been decided, or until the appellant shall have failed to prosecute the same, as the case may be; or if such warrant shall have been issued, he shall direct the person to whom it was addressed to suspend its execution for the like period; and in every case where such warrant shall have been issued, the person to whom it was addressed shall, either upon being so directed by the said officer, or upon the said certificate being produced to him, suspend its execution for the like period; and in every case where the person against whom any such warrant shall

Appeals.

Appeal against imposition of fine, &c. may be made to court of assizes, &c.;

but subject to the provisions herein-mentioned.

14 & 15 Vict. c. 93.

Appellant to enter into recognizance to appeal, &c.

In such case warrant not to be issued, or, if issued, not to be executed until decision of appeal.

Party, if in custody or gaol, to be discharged.

Court of appeal to hear and decide the appeal.

Execution of original order after appeal.

In case of jurors fines, party may have further appeal to superior courts.

Act not to interfere with power of Lord Lieutenant, &c. to reduce or remit fines, &c.

Estrait of recognizances.

On roof of non-perform-

be issued shall be in custody, or shall have been committed to gaol under the same, the court by which the order shall have been made, or the officer by whom the warrant shall have been signed, shall, upon application being made to him in that behalf, forthwith order his discharge :

3. In every case where an appeal shall be so made, the judges of the said superior courts, judge of assize, or assistant barrister, or recorder, as the case may be, shall and are hereby severally authorized to hear the matter of the said petition, and to make such order thereon for confirming the original order, or for reducing or wholly remitting the fine or other penal sum, as may seem fit under all the circumstances of the case ; and the proper officer of such court of appeal shall thereupon certify the said order under his hand to the officer of the court by which the original order shall have been made, who shall forthwith issue a warrant for the execution of same, if no warrant shall have been already issued, or shall endorse the same on the warrant if a warrant shall have been already issued, and direct the person to whom it shall have been addressed to proceed in its execution, or otherwise according to such indorsement ; and in every case where such appeal shall be dismissed, or shall not be duly prosecuted, the said proper officer of the court of appeal shall so certify under his hand to the officer of the court by which the original order shall have been made, who shall thereupon proceed as if no such appeal had been made :

- ~~4. In every case where any fine shall be imposed on any person for non-attendance as a juror, and the order imposing such fine shall not be reversed upon any such appeal, it shall be lawful for such person in like manner to make a further appeal to one of the superior courts of law in Dublin, during the term next after such first-mentioned appeal shall have been decided, and it shall be lawful for such court to hear and determine such appeal ; and the several provisions herein-before contained as to the suspension and subsequent execution of any warrant for the levy of such fine shall also apply to such last-mentioned appeal in like manner as to such first-mentioned appeal :~~

Provided always, that nothing herein contained shall be deemed in any way to limit or restrain the Lord Lieutenant, or the Treasury, or the Commissioners of Inland Revenue, from reducing or remitting any fine or sum imposed or ordered to be levied which by law he or they may be in any way authorized to reduce or remit.

10. In every case where any person who shall enter into a recognizance to keep the peace, or to appear to answer to any complaint as to an indictable offence, or to prosecute or give evidence in any case of an indictable offence, or to perform the

duties of petty sessions clerk, shall in any manner fail to perform the condition of such recognizance, it shall be lawful for the several assistant barristers, recorders of cities or boroughs, and for the chairman of quarter sessions of the county of Dublin, as the case may be, upon conviction of such person of any offence that shall be a breach of the condition of the said recognizance, or upon the production of a certificate thereof, signed and attested by the proper officer in that behalf, that the person so bound by recognizance had failed to perform the condition of the same, to order that such recognizance shall be forfeited to such amount as such assistant barrister, recorder, or chairman shall think fit, and to direct a warrant to issue to levy such amount in like manner as other penal sums are directed to be levied by this Act: Provided always, that proof shall be first made on oath before such assistant barrister, or recorder, or chairman, that notice in writing has been given to or left at the usual place of abode of the party or each of the parties, if there be more than one, against whom it shall be sought to put such recognizance in force, seven days at the least before the commencement of the sessions at which such application shall be made, and such notice shall state in substance the cause or matter on which it is intended to sustain the application.

ance of condition court may order levy of recognizance so forfeited.

Proof of notice to be first given.

11. The forms in the schedule to this Act contained, or forms to the like effect, shall be deemed good, valid, and sufficient in law: Provided always, that it shall be lawful for the chief or under secretary to the Lord Lieutenant from time to time to alter the said form of book (A.) so far as to introduce into it such further particulars as may be necessary in order to adapt it to any state of facts either new or not provided for therein.

Forms of procedure.

Forms in the schedule deemed valid.

Form of book may be altered.

12. No receipt, voucher, document, or instrument required to be given, made, or provided in pursuance of the provisions of this Act, shall be subject to or chargeable with any stamp duty payable to the Crown.

Receipts not to be subject to stamps.

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5.52 13. In every case where the Act under which any penal sum shall be ordered to be paid as a penalty for an offence (and no sum shall be awarded to the complainant as compensation for damage), it shall be lawful for the court to award any sum not exceeding one third of such penalty to the prosecutor or informer; and the remainder of such penalty and all other penalties shall be awarded to the Crown, any Act or Acts to the contrary notwithstanding: Provided always, that nothing herein contained shall be construed to alter the appropriation or application of any fine or penalty imposed at any of the divisional police offices of Dublin Metropolis or by the justices in any corporate town, and payable to any borough fund; but the same shall continue to be appropriated and applied as is now by law authorized, and shall be paid over to the same purposes from time to time in such manner and at such times as the chief or under secretary to the Lord Lieutenant shall direct.

Application of fines.

Appropriation of fines and penalties.

Saving as to fines imposed at divisional police offices of Dublin Metropolis or by justices in a corporate town.

14. All fines or penalties payable to the Crown, not being fines or penalties imposed at any of the said divisional police

Crown fines, &c. to be

lodged in
Bank.

offices or by the justices in any corporate town as aforesaid, and the amount levied under any forfeited recognizance, shall be from time to time lodged in the Bank of Ireland by the said several officers into whose hands the same shall come, in such manner as shall be from time to time directed by the chief or under secretary to the Lord Lieutenant, to the credit of the same fund and for the same purposes to which all fines and penalties payable to the Crown are now by law directed to be lodged.

Expences of
audit, &c.

15. It shall be lawful for the Lord Lieutenant to charge the said fund with the payment of such expences as may be necessarily incurred in the examination of the accounts to be rendered under the provisions of this Act, and in the supply of books for the entry of orders at petty sessions, and in otherwise carrying the provisions of this Act and of the said Petty Sessions Act into effect.

14 & 15 Vict.
c. 93.

Miscellaneous
provisions.

Clerks of divi-
sional police
offices to give
security.

16. The several chief clerks of the said several divisional police offices, or such other clerks as may be deputed as aforesaid at the said divisional police offices, shall give such security for the proper accounting for all fines or other monies which may pass through their hands, under the provisions of this Act, as the said chief or under secretary shall direct, in like form and manner as is required to be given by each clerk of petty sessions under the provisions of the said Petty Sessions Act.

14 & 15 Vict.
c. 93.
Annual
accounts.

17. An abstract account of all fines and other penal sums accounted for under the provisions of this Act shall be annually laid before both Houses of Parliament as soon as the accounts for each year shall have been examined and declared.

Interpretation.

18. In the interpretation of this Act, save where there is anything in the subject or context repugnant to such construction, the word "county" shall be deemed to include "riding of a county"; the word "justice" shall mean justice of the peace, and include a justice of the divisional police office of Dublin Metropolis; ~~the word "gaol" shall include any "house of correction" or "bridewell" or other legal place of imprisonment of the county;~~ the words "keeper of the gaol" shall include the governor, ~~gaoler,~~ or other keeper of any such gaol or bridewell; the word "goods" shall include "chattels"; and the reference to forms by letters shall be deemed to be to the forms in the schedule to this Act.

[S. 19 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Short title.

20. In citing this Act in other Acts of Parliament, or in any legal or other instruments or proceedings, it shall be sufficient to use the expression "The Fines Act (Ireland), 1851."

[S. 21 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Extent of Act.

22. This Act shall extend to Ireland only, except so far as relates to the backing and execution of warrants.

Schedule to be
part of Act.

23. The schedule to this Act annexed shall be deemed and understood to be part of this Act.

FORM (B.)—Receipts.

(B a.) Receipt for Sums paid to Officer of Court by Parties.

_____ *Plaintiff.* } Court of _____
 _____ *Defendant.* } County of _____

I have received from *C.D.* the sum of _____ under an order of
 the above court, made on the _____ day of _____

Sum, £ : :

Costs, £ : :

Signed _____

Officer of said court of _____

This _____ day of _____ 185 .

(B b.) Receipt for Sums paid to Officer of Court by Gaolers.

_____ *Plaintiff.* } Court of _____
 _____ *Defendant.* } County of _____

I have received from _____ keeper of [gaol] at _____, the
 sum of _____, stated to be the sum in a warrant under which
C.D. was committed on the _____ day of _____, under the
 order of the above court, to the said gaol.

Sum, £ : :

Costs, £ : :

Signed _____

Officer of said court.

This _____ day of _____ 185 .

(B c.) Receipt for Sums paid to Parties by Officer of Court.

_____ *Plaintiff.* } Court of _____
 _____ *Defendant.* } County of _____

I have received from _____, the officer of the above court, the
 sum of _____, awarded to me on the _____ day of _____

Sum, £ : :

Costs, £ : :

Signed _____

Witness _____

of constabulary.

This _____ day of _____ 185 .

FORM (C.)—Recognizance.

_____ *Plaintiff.* } Court of _____
 _____ *Defendant.* } County of _____

Whereas an order was made on the _____ day of _____,
 by the above court, that ⁽¹⁾

⁽¹⁾ Order of
 court against
 which party
 appeals.

The undersigned principal party to this recognizance hereby binds
 himself to perform the following obligation; viz.

To attend the ⁽²⁾

⁽²⁾ the court of
 assizes or
 quarter ses-
 sions, or other
 court of
 appeal.

to be held at _____, on the _____ day of _____, at
 _____ o'clock in the forenoon, and there to prosecute his appeal
 against the said order.

And the said principal party, together with the undersigned sureties, hereby severally acknowledge themselves bound to forfeit to the Crown the sums following; viz., the said principal party the sum of _____ and the said sureties the sum of _____ each, in case the said principal party fails to perform the above obligation.

Signed { _____ Principal party.
 _____ Sureties.
 Taken before me, this _____ day of _____, at _____
 Signed _____ Justice.

I certify, that the said _____ has not performed the above Certificate of
 obligation. _____ forfeiture.

This _____ day of _____ Signed _____
 185 .

I order, that the sum of _____ be levied off the goods of the said Order to
 principal party, and the sum of _____ off the goods of each of the estreat.
 said sureties.

This _____ day of _____ Signed _____
 185 .

FORM (D).—Certificate of Recognizance to Appeal.

_____ Plaintiff. } Court of _____
 _____ Defendant. } County of _____

Whereas an order was made by the court of _____, on the
 day of _____, against _____, of _____
 To the following effect; viz.⁽¹⁾

I certify that he has duly entered into a recognizance in the sum of _____ each, court against
 of _____, with two sureties in the sum of _____ which party
 conditioned to prosecute his appeal against the said order. appeals.

Signed _____ Justice.
 This _____ day of _____ 185 .

CHAPTER XCII.

AN ACT to consolidate and amend the Acts relating to certain
 Offences and other Matters as to which Justices of the Peace
 exercise Summary Jurisdiction in Ireland.^[1]

[7th August 1851.]

[Preamble.]

1. It shall be lawful for any justice or justices sitting in petty sessions, (or for any two justices sitting out of petty sessions, when the offender shall be unable to procure bail for his appearance at petty sessions,) within his or their respective jurisdictions, to hear and determine, either on the oath of one or more credible witnesses, or on the confession of the person against whom the Justices may decide cases under this Act on evidence of witnesses or confession, &c

[¹ Short title, "The Summary Jurisdiction (Ireland) Act, 1851." See s. 29.]

complaint shall be made, all complaints relating to any offences, claims, or other matters under the provisions of this Act, and to order such fine, imprisonment, compensation, expences, and sums, or to make such other order relating to each offence or other matter as such person shall be liable to under the said provisions; and all proceedings as to compelling the appearance of any such person or of any witness, and as to the hearing and determination of such complaints, and as to the making and executing of such orders, shall be subject in all respects to the provisions of the Petty Sessions (Ireland) Act 1851, (when the case shall be heard in any petty sessions district,) and to the provisions of the Acts relating to the divisional police offices, (when the case shall be heard in the police district of Dublin Metropolis,) so far as the said provisions shall be consistent with any special provisions of this Act.

[Ss. 2-5 rep. 24 & 25 Vict. c. 95. s. 1.]

CRIMINAL JURISDICTION.

Stealing by juvenile offenders.

Any person not exceeding fourteen years of age committing larceny shall be fined or imprisoned;

and, if a male, may be whipped.

If offence be not proved, &c. justice may dismiss the person with or without sureties for good behaviour.

Restitution and compensation.

6. Any person who shall commit any of the next following offences, (and whose age at the time of the commission thereof shall not, in the opinion of the justices, exceed the age of fourteen years,) shall be liable to the punishment herein-after specified:

1. Any such person who shall commit, or attempt to commit, or who shall aid or abet the commission of any offence which now is or hereafter shall or may be by law deemed or declared to be simple larceny, or punishable as simple larceny, shall, upon conviction thereof before the justices sitting in petty sessions and in open court, be liable to a fine not exceeding three pounds, or to be imprisoned for a period not exceeding three months:

2. If a male, such person shall, if the justices shall see fit, be liable to be once privately whipped, either instead of or in addition to such imprisonment; and the justices shall from time to time appoint some fit and proper person to inflict said punishment of whipping, when ordered to be inflicted out of prison:

3. And if the justices, upon the hearing of any such case, shall deem the offence not to be proved, or that it is not expedient to inflict any punishment, they shall dismiss the person charged, on his finding a surety or sureties for his future good behaviour, or without such sureties, if the said justices shall so think fit:

And no conviction of any such juvenile offender for any such offence shall be attended with any forfeiture, save as herein-before mentioned; but whenever any such person shall be convicted of such offence, it shall be lawful for the justices to order restitution of the property in respect to which such offence shall have been committed to the rightful owner; or if such property shall not then be forthcoming, the justices, whether they shall award punishment or dismiss the complaint, may, if they shall think fit, order payment of the value of such property

2. L. R.
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in money to the rightful owner by the person convicted: Provided always, that if the justices shall be of opinion, before any such person shall have made his defence, that the charge is from any circumstance a fit subject for prosecution by indictment, (or if the parent or next friend of such person shall, upon his being called upon to answer the charge, object to the case being summarily disposed of under the provisions of this Act,) the justices shall, instead of summarily adjudicating thereupon, deal with the case as one to be prosecuted by indictment at assizes or quarter sessions.

If the charge is thought fit for indictment, &c. case to be dealt with as such.

+ 7. Any person who shall commit any of the next following offences shall be liable to the punishment herein-after specified in each case :

Frauds as to provisions.

1. Any person who shall sell or offer for sale any wheat, rye, meslin, peas, beans, barley, bere, oats, shillin, cutlings, meal, flour, malt, or other corn, which shall in the whole or in part be spoiled or adulterated by wetting or mixing therewith any sand, gravel, dirt, or rotten or damaged corn, grain, malt, meal, or flour, or grown or blighted corn, or other kind of stuff, or which shall not be in quality of equal goodness to that produced to the view of the intended buyer or buyers thereof, or shall use any other fraud or deceit therein, in order to make such corn, grain, malt, meal, or flour appear heavier than it would have been without such mixture, fraud, or deceit, shall forfeit all such corn, grain, malt, meal, or flour, to be disposed of as the justices shall direct, and shall also be liable to a fine not exceeding forty shillings, or to be imprisoned for any term not exceeding one month :

Offering adulterated corn, &c. for sale.

2. Any person who shall exhibit for sale any unwholesome or fraudulently prepared meat, fish, or other provisions or food of any kind for man or beast, or shall practise any deceit or fraud in respect to the quality of any such meat, fish, or other provisions, shall forfeit all such meat, fish, or other provisions, to be disposed of as the justices shall direct, and shall also be liable to a fine not exceeding forty shillings, or to be imprisoned for any term not exceeding one month :

Offering unwholesome or fraudulently prepared meat, &c. for sale.

And it shall be lawful for any justice to seize or cause to be seized any of the articles herein-before last mentioned as to which any such offence shall have been committed ; and the said justice may, if he shall deem it expedient, either proceed at once to hear and determine the case, or may adjourn the hearing thereof to the next petty sessions of the district.

8. Any person who shall commit any of the next following offences shall be liable to a fine not exceeding ten shillings, and in default of payment thereof at such time as the justices shall fix shall be liable to be imprisoned for a period not exceeding one week :

Trespass of persons.

Trespass on
fields, &c.

1. Any person who shall wilfully trespass in any field, garden, pleasure ground, wood, plantation, or other place, and shall neglect or refuse to leave any such place after he shall have been warned to do so by the owner, or by the caretaker or servant of the owner, or by any person authorized in that behalf by the owner:
2. Any person who shall again trespass in any such place within three months from the time when any such warning shall have been so given to him:

Provided always, that nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to go into or upon any such place, nor to any trespass (not being wilful or malicious) committed in hunting, fishing, or the pursuit of game; but nothing herein contained shall prevent any person from maintaining any civil action or suit for any such trespass, instead of proceeding under this Act.

*Injuries to
public roads.*

9. Any person who shall commit any of the next following offences on or relating to any public road shall be liable to the punishment herein-after specified in each case:

Omitting to
scour ditches
after notice,
or to have
drains under
passages in
and out of
roads.

1. Any owner or occupier of any lands contiguous to any public road who shall omit to scour any ditch or drain leading from such road, so as to allow the water to pass away, within ten days after notice shall have been given to him so to do by the county surveyor or by the contractor for the repair of such road, or who shall suffer the passage of the water to be obstructed by making or leaving any way or passage from any road into the adjoining lands, or into his house, without a sufficient pipe, sewer, or gullet underneath it, shall be liable to a fine not exceeding twenty shillings:

Building
houses within
30 feet of the
centre of the
road.

2. Any person who shall build or cause to be built any house or part of a house within thirty feet of the centre of any public road, except in the streets of corporate or market towns, or where a house now stands, shall be liable to a fine not exceeding ten pounds, and to a further sum of ten shillings a week from the time of his conviction until the same shall be pulled down or removed:

Deepening
ditches or
altering fences,
&c. without
consent of
county sur-
veyor.

3. Any person who shall scour, deepen, widen, or fill up any ditch or drain on the side of any public road, or who shall alter the fences of any public road; or who shall build any wall, or make any ditch, drain, or watercourse, or dig any pit or hollow, on any public road, or within thirty feet of the centre thereof (save upon or within any ancient fence adjoining such road); or who shall otherwise break up the surface of any road or footpath, unless with the consent of the county surveyor, or by the authority of any presentment, shall be liable to a fine not exceeding twenty shillings (and the centre of the road

for the purposes of this Act, shall be deemed to be the centre of the part thereof made with gravel or stones):

4. Any person who shall, without the consent of such surveyor or contractor, scrape any public road . . . or who shall draw any timber or stones along any part of a public road, without being supported by wheels from touching the same, or who shall ride or drive any horse or other animal, willingly and unnecessarily, on any footpath, shall be liable to a fine not exceeding twenty shillings:

Scraping roads, &c. without consent of county surveyor.
Drawing timber, &c. so as to injure road.
Riding on footpaths.
5. Any county surveyor or road contractor, or other person, who shall dig, raise, and carry away any gravel, stones, sand, or other materials from the side of any public road, or from any beach or sea-shore, whereby a public road, or bulwark or defence to any bridge or like building, or any land within the fences of any such road, may be injured, shall be liable to a fine not exceeding five shillings for every cartload of such gravel, stones, sand, or other materials so dug, raised, or carried away:

Taking materials to the injury of any road, &c.
6. Any person who shall wilfully damage or destroy any pay gate . . . , or any post, rail, wall, chain, bar or other fence of any kind whatsoever, which shall be used to prevent passengers from passing by without paying the toll payable by virtue of any Act of Parliament, or any toll house for the use of any such pay gate . . . , or who shall forcibly rescue or attempt to rescue any person or persons, being lawfully in custody of any constable or other person for any such offences, shall be liable to a fine not exceeding forty shillings, or to be imprisoned for any term not exceeding two months:

Destroying any pay gate, &c.;
or rescuing person in custody for such offences.
7. Any person who shall wilfully prevent or assault, or threaten to prevent or assault, any county surveyor or road contractor in the execution of his duty, or any person or persons employed by proper authority in surveying or measuring or laying out any line intended for a new road; or who shall wilfully destroy, pull up, deface, or injure any surveyors instruments or implements used in making or laying out any public road, or any milestone, milepost, or direction post, or any bridge, battlement, wall, railing, mound, or fence belonging to any public road; or who shall wilfully break, deface, pull down, or take away stones out of any such battlement, wall, mound, or fence, or out of any bridge, pipe, arch, or gul'et belonging to any public road, shall be liable to a fine not exceeding ten pounds, or to be imprisoned for a term not exceeding three months:

Assaulting engineers, surveyors, or contractors on public roads, &c.
8. It shall be lawful for any two justices of the county, upon application of the county surveyor, to forbid any person or persons from riding or driving any kind of beast or carriage on any new road for such space of time as shall

Justices may forbid the using of a new road for a certain time after

making
thereof, &c.

County sur-
veyor or con-
tractor may
require owners
of land to
remove ob-
structions, &c.
and to prune
hedges or trees
injuring roads.

Owners not
complying to
be summoned
before justices
at petty
sessions ;

who may order
obstructions to
be removed,
&c. ;
and on refusal
of owner, the
surveyor or
contractor may
do it at expense
of owner.

Expenses may
be levied by
distress and
sale.

Trees, &c.
to be cut or

to them appear necessary, not exceeding six months after such new road shall have been made, and the expenditure thereon duly accounted for at special sessions ; and any person who shall wilfully disobey such order (the same being duly notified by a notice affixed to a board or boards erected upon such road) shall be liable to a fine not exceeding twenty shillings.

And if the county surveyor or the contractor for the repairing of any public road in any county shall think that such road is prejudiced by any of such neglects or offences as aforesaid, or by the shade of any hedges or trees, (except those planted for ornament or shelter of any dwelling house, courtyard, or garden,) or that any obstruction is caused in any public road by any hedge or tree, it shall be lawful for such surveyor or contractor, by notice in writing, to require the person who shall be guilty of any such neglect or offence, or the owner of the land on which such hedges or trees are growing, as the case may be, to fill up any ditch or drain which shall have been so scoured, deepened, or widened, or to scour any drains which have been so filled on the side of any public road without the consent of the said county surveyor or the authority of a presentment, or to scour or deepen any drain or ditch leading from any road which shall be omitted to be scoured or deepened after due notice by such surveyor or contractor, or to remove any way or passage from any road into any adjoining land or to any house which may obstruct the free passage of the water, or to remake the same by building a gutter, sewer, or arch therein, or to pull down any wall or fill up any ditch or drain the building of which shall have been an offence against the provisions of this Act, or to cut or plash such hedges, or to prune or lop such trees, so as that such road may not be prejudiced or obstructed by the same ; and if such person or owner shall not comply with such request within ten days after such notice, it shall be lawful for such surveyor or contractor as aforesaid to summon such person or owner before the justices assembled at any petty sessions of such county, to show cause why he has not complied with such request : and upon the hearing of such case it shall be lawful for such justices, if they shall see fit, to order that such person or owner shall act as required by such notice as aforesaid ; and if the said person or owner shall not obey such order within ten days after the making of the same, it shall be lawful for such surveyor or contractor, if so directed by the justices, to do all or any of the said acts so required by such notice, for the benefit and improvement of such road, or to remove such obstruction as aforesaid, to the best of his skill and judgment, and at the expence of such person or owner ; and it shall be lawful for such justices, upon complaint of such surveyor or contractor as aforesaid, and upon proof of the expences incurred, to issue their warrant for the levy of such expences by distress and sale of the goods and chattels of such person or owner : Provided always, that no person shall be compelled, nor any such surveyor or contractor

as aforesaid permitted, to cut or prune any hedge at any other time than between the last day of September and the last day of March. pruned only at certain seasons.

10. Any person who shall commit any of the next following offences shall be liable to the punishment herein-after specified in each case : *Nuisances on public roads.*

1. Any person who shall in any public road or street of a town turn loose any horse or cattle, or set on or urge any dog or other animal to attack or worry any person, horse, or other animal, or who by negligence or illusage in driving cattle shall in any public road or any street of a town cause any mischief to be done by such cattle, shall be liable to a fine not exceeding ten shillings : Turning horse, &c. loose.
Negligence in driving cattle, &c.
2. Any person who shall fly any kite or play at any game, or make or use any slide upon ice or snow, on any public road or in any street of a town, to the danger of the passengers ; or who shall cast or throw any fireworks or ~~discharge any firearms~~ on any public road, or within sixty feet of the centre thereof, or in any street or passage of a town, or who shall cast, throw, or discharge the same, or suffer the same to be cast, thrown, or discharged, from out of his house, shop, dwelling, lodging, or habitation, or from out of any place thereto belonging, into any public road, street, or passage, shall be liable to a fine not exceeding ten shillings : Flying kites, &c. or making slides.
Fireworks, &c.
3. Any person who shall leave or permit to be left on any public road any plough, harrow, cart, or other carriage, without the horse or other animal being harnessed thereto, unless such carriage shall have been accidentally broken down there, shall be liable to a fine not exceeding ten shillings : Leaving ploughs, harrows, &c. on the road.
4. Any person who shall slaughter any beast, or leave any dead beast, or skin or permit to be skinned any beast, on any public road or within thirty feet of the centre thereof, (save within any house or inclosed yard,) shall be liable to a fine not exceeding ten shillings : Slaughtering, beasts, &c. on a road.
5. Any person who shall lay any stones, timber, dirt, dung, turf, straw, rubbish, or scourings of any ditches or drains, or other object, on any public road or within thirty feet of the centre thereof, or in any street of a town, so as to cause danger or mischief to any passengers, and shall allow the same to remain there longer than shall be absolutely necessary, shall be liable to a fine not exceeding ten shillings ; and for every cartload of dung, rubbish, scourings, clay, stones, bricks, sand, or lime, or other like materials, which shall have been so laid on any public road or street, and which shall be allowed to remain there for more than twenty-four hours after the owner thereof shall have been required by any justice or by the county surveyor, by notice in writing, to remove the same, such Laying stones timber, &c.
Further fine for every day that materials are left on road after notice to remove the same.

owner shall, in addition to the above fine for so leaving the same there in the first instance, be also liable to a further fine not exceeding two shillings and sixpence for every day that the same shall be allowed to remain there after the expiration of the said period of twenty-four hours :

- | | |
|--|--|
| <p>Scalding casks, beating flax, or winnowing corn, &c.</p> | <p>6. Any person who shall hoop, scald, or fire any cask, or bind any car or cart wheels, or beat any flax, or thresh or winnow any corn, on any public road or street of a town, or within thirty feet of the centre thereof, (save within any house or inclosed yard,) shall be liable to a fine not exceeding ten shillings :</p> |
| <p>Keeping dogs unlogged or unmuzzled.</p> | <p>7. Any person who shall keep or suffer to be at large within fifty yards of any public road any dog, without having such dog muzzled, or without having a block of wood fastened to the neck of such dog, of sufficient weight to prevent such dog from being dangerous, shall be liable to a fine not exceeding ten shillings ; and it shall be lawful for the justices of the petty sessions district to issue a warrant to any sub-inspector, head or other constable, directing him to seize or kill any dangerous dog which shall be so kept near any public road contrary to the provisions of this Act, and such sub-inspector, head or other constable may accordingly seize or kill any such dog :</p> |
| <p>Justices may order dangerous dogs to be killed.</p> | |
| <p>Drying flax or burning bricks or weeds, &c.</p> | <p>8. Any person who shall dry any flax, or burn any bricks or lime, or any weeds or vegetables for ashes, or make or assist in making any fires commonly called bonfires, or any kind of fire, upon any public road or within sixty feet of the centre thereof, save within any house or inclosed yard,) shall be liable to a fine not exceeding ten shillings :</p> |
| <p>Carrying timber, &c. cross-wise.</p> | <p>9. Any person who shall lead or drive on any public road or street of a town any car or other carriage with timber, boards, or iron laid across, so that either end shall project more than two feet beyond the wheels or sides thereof, shall be liable to a fine not exceeding ten shillings :</p> |
| <p>Exposing horses, &c. for show, sale, or hire.</p> | <p>10. Any person who shall expose upon any public road or in any street of a town any horse or other animal for show, hire, or sale, except in any fair or market or other place lawfully appointed for that purpose, shall be liable to a fine not exceeding forty shillings :</p> |
| <p>Allowing swine, &c. to wander on roads.</p> | <p>11. Any person who shall allow any swine or other beast to wander upon any public road, or about the streets or passages of any town, shall be liable to a fine not exceeding two shillings ; and in case the owner shall not be known, it shall be lawful for any person by whom any such swine or other beast shall be found wandering upon any such road, street, or passage, to impound the same, subject to the provisions herein-after contained as to the impounding of distresses :</p> |
| <p>Swine, &c. wandering on roads may be impounded if owner is not known.</p> | |

Provided always, that nothing herein contained shall render any county surveyor or road contractor liable to any fine for any act done by such surveyor in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract; but if any such surveyor or contractor shall lay or cause to be laid any heap of stones, gravel, rubbish, or other matter whatever, upon any public road, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon, (all due and reasonable precautions not having been taken by him to prevent any such danger or damage,) such surveyor or contractor shall be liable to a fine not exceeding five pounds.

Surveyor or contractor not liable to fine, except in certain cases.

11. Any of the persons herein-after mentioned who shall commit any of the next following offences on any public road or in any street of a town shall (in addition to any civil action to which he may subject himself) be liable to a fine not exceeding forty shillings:

Public stage carriages.

1. Any driver, owner, or guard of any coach, omnibus, car, caravan, or other carriage, by what name soever the same is or shall hereafter be called or known, which shall be employed as a public stage carriage for conveying passengers for hire, who shall permit more passengers to be carried by the same than the number for whom seats shall be respectively provided, inside or outside of the same, allowing a space of at least sixteen inches for each passenger, over and above the space allotted to the driver and guard when there is a guard; but no child under seven years of age shall be included in or counted as one of such number; and it shall be lawful for any justice, county inspector, sub-inspector, head or other constable, to stop any such carriage which shall appear to carry a greater number of passengers than the above, and to measure the seats of the same, in order to ascertain whether sufficient space has been allotted to the passengers:

Carrying more than a certain number.

Justices, &c. may stop carriages in order to measure seats.

2. Any driver, owner, or guard of any such public stage carriage, who shall allow any passenger to sit upon the top of any luggage, or upon any part of such carriage not intended to carry passengers, or who shall carry or permit or suffer any parcel or parcels of luggage whatever exceeding two feet in height above the roof to be conveyed on any such carriage carrying inside passengers:

Carrying luggage on the top of any carriage, with inside passengers, exceeding a certain height, &c.

3. Any person who shall keep and employ any such public stage carriage, and who shall not paint or cause to be painted on the outside of the door, or of each door when there shall be more than one, of such carriage, or on some other conspicuous part of such carriage where there shall be no door, in legible letters of at least one inch in height, and in a different colour from the ground on which the same is painted, and in words at length, the number of

Omitting to paint number of passengers to be conveyed, &c. on the doors, &c. of public carriages.

passengers which such carriage shall be intended to carry, together with the name or names of the person or persons or firm of the company of proprietors to whom such carriage shall belong, or who shall cause any such carriage as aforesaid to be employed or used for carrying any passengers for hire without having the said words painted in such manner as is herein-before directed :

Misconduct of
drivers, &c.

4. Any driver or guard of any such public stage carriage who shall wilfully mis-spend or lose time on the road, or who shall use abusive or insulting language to any passengers, or who by reason of intoxication, negligence, or other misconduct, shall endanger the passengers in their lives or their property, or the property of any other person with which they may be intrusted, or who shall demand or exact more than the proper fare due from any passenger ; and in any such case the justices may, in addition to the fine, order such offender to repay to any party so aggrieved any sum so exacted, or a reasonable compensation for any damage or loss caused by any such offence :

Drivers leaving
their horses
until a proper
person shall
stand at their
head, or allow-
ing others to
drive, &c.

5. Any driver of any such public stage carriage who shall (at any place or places where assistance can be procured) quit his horse or horses, or the box of such carriage, until a proper person or persons shall stand at the head of the horse or horses or fore horse or fore horses, or shall hold the reins so as to prevent them from running away ; or any such last-mentioned person or persons who shall not remain at their head or hold the reins until the driver has returned to his box ; or any driver of any such carriage who shall intrust the reins to any other person to drive such carriage, or any person who shall so take such reins and drive such carriage.

Carts and cars.

12. Any of the persons herein-after mentioned who shall commit any of the next following offences on any public road, or in any street of a town, shall (in addition to any civil action to which he may subject himself) be liable to a fine not exceeding ten shillings :

Where names
of owners are
not painted on
carts, &c.

1. Any owner of any cart, car, dray, or other such carriage used for the conveyance of goods, who shall use or allow the same to be used on any public road or street without having his name and residence painted upon some conspicuous part of the right or off side of such carriage, in legible letters not less than one inch in height, and in a different colour from the ground on which the same is painted, and in words at length, or who shall paint or cause to be painted any false or fictitious name or residence on such carriage :

One driver
taking charge
of more than
one cart, &c.

2. Any person who shall act as the driver or have the sole charge of more than one such carriage as last aforesaid on any public road or street, unless in the cases where two of

such carriages and no more shall be drawn each by one horse only, and the horse of the hinder of such carriages shall be attached by a sufficient rein to the back of the foremost of such carriages :

except in certain cases.

3. Any person having the care and charge of any such carriage as last aforesaid, who shall ride upon the same, or upon any horse drawing the same, on any public road or street, except where he shall be accompanied by some other person on foot or on horseback to guide the same, or where such carriage shall be driven with reins, and be conducted by some person holding the reins of all the horses drawing the same :

Drivers of carts riding thereon without some other person to guide them, &c.

4. Any driver of any such carriage as last aforesaid who shall negligently or wilfully be at such distance from such carriage, or in such a situation, that he cannot have the direction of the horse or horses drawing the same, or who shall leave any such carriage on such road or street so as to obstruct the passage thereof :

Drivers leaving their carts.

5. Any driver of any such carriage as last aforesaid not having the owner's name thereon as hereby required, and remaining legible thereon, who shall refuse to tell or to discover the true christian and surname and residence of the owner of such carriage.

Drivers refusing to tell owners' names.

13. Any person who shall on any public road or street commit any of the next following offences shall (in addition to any civil action to which he may make himself liable) be also liable to the punishment herein-after specified in each case :

Rules of the road.

1. Any person driving any carriage whatsoever, or riding any horse or other animal, who, meeting any other carriage or horse or other animal, shall not keep his carriage or horse or other animal on the left or near side of the road or street, or, if passing any other carriage or horse or other animal going in the same direction, shall not, in all cases where it is practicable, go and pass to the right or off side of such other carriage or horse or other animal, shall be liable to a fine not exceeding ten shillings :

Keeping on wrong side of the road.

2. Any person riding any horse, and leading any other horse, who shall not keep such led horse on the side farthest away from any carriage or person passing him on any public road or in any street of a town, shall be liable to a fine not exceeding ten shillings :

Passing with a led horse.

3. Any person who shall in any manner wilfully or by negligence or misbehaviour prevent or interrupt the free passage of any person or carriage on any public road or street, or crossing, shall be liable to a fine not exceeding twenty shillings :

Obstructing free passage of persons or carriages.

4. Any person riding any horse or animal, or driving any sort of carriage, who shall ride or drive the same furiously on any public road or street so as to endanger any passenger

Furious driving.

Negligent
driving, &c.

Children under
thirteen years
not to drive
certain
vehicles.

*Special provisions as to
proceedings
for road
offences.*

Constabulary
to take cogni-
zance of
offences, and
summon
offenders, if
known, in any
petty sessions
district where
the offence was
committed or
the offender
is found.

If name of
offender is not
known, he may
be arrested.

Proceedings if
offender will
not discover
his name.

Horses, car-
riages, &c. of
offenders may
be detained ;

and sold for
payment of
penalty and
expences.

or person, or who shall by carelessness or wilful mis-
behaviour cause any injury to any person or property on
any public road or street, shall be liable to a fine not
exceeding twenty shillings :

5. And no cart, dray, waggon, or other such carriage, and no hackney car or carriage, or car or carriage let on hire, travelling on any public road or street, shall be driven by any person who shall not be of the full age of thirteen years, under a penalty not exceeding ten shillings, to be paid by the owner of such carriage.

14. The mode of proceeding as to any of the said offences committed upon public roads or streets shall be subject to the following special provisions :

1. The county and sub-inspectors, head and other constables of the constabulary force, shall take cognizance of all such offences, and shall, in every case where the name and residence of any such offender is known or can be ascertained, summon him either before the justices of the petty sessions district in which the offence shall be committed, or before the justices of any other petty sessions district in which such offender may reside or be at the time of taking such proceeding ; and such justices are hereby authorized to hear and determine such case, either upon the complaint of such county or sub-inspector, head or other constable, or of any other person :
2. Where the name and residence of such offender shall be unknown and cannot be ascertained, he may, with or without any warrant, be arrested by any such county or sub-inspector, head or other constable, or any persons whom he may call to his assistance ; and if any such person shall refuse to discover his name, it shall be lawful for the justice before whom he shall be taken, or to whom any such complaint shall be made, to commit him to gaol for any time not exceeding one month, or to entertain any proceeding against him for the penalty aforesaid by a description of his person and offence only, without adding any name or designation, but expressing in the proceedings that he refused to discover his name ; and whenever any person having charge of any horse or other animal, or of any cart or other carriage, shall be so taken into custody by any county inspector, sub-inspector, head or other constable, it shall be lawful for such county or sub-inspector, head or other constable also to take charge of such horse, animal, cart, or carriage, and to deposit the same in some place of safe custody, as a security for payment of any penalty to which the person having had charge thereof may become liable ; and it shall be lawful for the justices by whom the case shall be heard to order that, in default of such penalty, and the expences of keeping such horse, animal, cart, or carriage, being

paid, the same shall be sold, for the purpose of satisfying such penalty and expences, in like manner as if the same had been subject to be distrained and had been distrained for the payment of the same :

3. It shall be lawful for the county surveyor or road contractor, or any head or other constable duly authorized in writing by any justice of the county, to remove any of the herein-before mentioned objects which may be left on any public road or street contrary to the provisions of this Act, at the expence of the offender ; and it shall be lawful for the justices at any petty sessions of the county, upon complaint of such surveyor, contractor, or constable, and upon proof of the expence incurred, to issue a warrant for the levy of such expences by distress and sale of the goods and chattels of the offender :
4. In every case where any hurt or damage shall have been caused by the commission of any of the said offences, the justices, upon the hearing of the complaint, may, in addition to any penalty herein provided, order the party offending, or, in case of an offence by the driver of any carriage, the owner of such carriage, forthwith to pay for compensation to the party aggrieved a sum not exceeding forty shillings (provided such amount of damage shall have been proved) ; and any sum which shall be so paid by the owner shall and may in like manner be recovered by him in a summary way before the justices from the driver through whose default such sum shall have been so paid, upon proof of the payment thereof pursuant to the order of the justices :
5. Any summons issued by any justice, requiring any owner, driver, or guard of any public stage carriage to appear before him to answer any complaint for any such offence, shall be deemed good and sufficient service in case the same be left with the known or acting book-keeper, or with any other person having the care of any office where places are usually taken or parcels received for such carriage.

Removal of nuisances.

Compensation (not exceeding 40s.) for damage recoverable before justices from owners.

Owners may recover over against drivers.

Summons for the driver, &c. of stage carriage left with the book-keeper, &c. to be good service.

15.[1] The decision of claims to the possession of small tenements in certain towns and villages shall be subject to the following provisions :

CIVIL JURISDICTION.

Possession of small tenements.

1. Whenever the term or interest of the tenant of any house or of any part of a house situate in any city, town, borough, or village in which any fair or market is usually held, and which shall be held by him for any term not exceeding one month, at a rent not exceeding the rate of one pound sterling by the month, shall have ended, or

Summons for recovery of possession of small tenements may be issued by justices.

[1 These provisions extend to such small tenements herein described as are situate in any town or township within the police districts of Dublin Metropolis, although no fair or market be held therein, 34 & 35 Vict. c. 76. s. 10.]

shall have been duly determined by a legal notice to quit, if such tenant, (or, where such tenant shall not himself occupy the premises, or only a part thereof, if the person by whom the same or any part thereof shall be occupied,) shall neglect or refuse to deliver up possession of the same, it shall be lawful for the landlord of the said premises, or his known agent, or for the receiver of the rents of his estate, to cause such tenant or occupier to be served with a summons in writing, signed by any justice having jurisdiction in the place in which the said premises shall be situated, to appear before the justices at the petty sessions of the district in which the said premises shall be situated, to show cause why possession of the said premises should not be delivered up :

Manner in which such summons shall be served.

2. Such summons may be served upon such tenant or occupier either personally or by leaving the same for him with some person in occupation of such house or part of a house, and where the tenant of such house or part of a house shall not reside therein either by serving the same personally upon him or by leaving the same at his usual place of abode four clear days before the day appointed for the hearing of the matter of the said summons ; but if the person so holding over cannot be found, and admission into the premises so overheld cannot be obtained, and the place of abode of such person not residing as aforesaid shall either not be known or admission thereto cannot be obtained, the posting of the said summons on some conspicuous part of the said premises shall be deemed to be good service upon such person :

Posting of summons on premises to be good service in certain cases.

On proof of right, justices may issue warrant to deliver possession.

3. If such tenant or occupier shall not appear at the time and place appointed, or shall appear, but shall not show to the satisfaction of the justices reasonable cause why possession should not be given, and shall still neglect or refuse to deliver up the possession of the said premises to the said landlord, agent, or receiver, it shall be lawful for the justices, upon proof of the holding, and of the end or determination of the tenancy, with the time and manner thereof, (and, where the title of the landlord shall have accrued since the letting of the premises, upon proof of the right by which he claims the possession,) to issue a warrant to the sub-inspector of the district within which such premises shall be situated, or to any other person as a special bailiff in that behalf, requiring and authorizing him, within a period to be therein named, not less than seven or more than ten clear days from the date of such warrant, to give possession of the premises to such landlord, agent, or receiver ; and such warrant shall be a sufficient warrant to the said sub-inspector or bailiff to enter upon the premises, with such assistants as he shall

deem necessary, and to give possession accordingly; but such entry shall not be made on a Sunday, Good Friday, or Christmas Day, or at any time except between the hours of nine in the morning and four in the afternoon.

4. But if such tenant or occupier shall appear before the justices, and shall give an undertaking (to be entered in writing by the clerk of petty sessions) quietly and peaceably to deliver up, within fourteen days from the date thereof, possession of the premises of which he shall be such tenant or occupier, in good order and repair, to such landlord, agent, or receiver, and in the meantime to pay all rent and arrears of rent claimed by such landlord in respect to such premises, the justices shall not issue their warrant for giving possession till the expiration of such period of fourteen days; and if such tenant or occupier shall at the expiration of such period continue in possession or occupation of the said premises, save by the permission of such landlord, agent, or receiver, it shall be lawful for the justices, at the instance of such landlord, agent, or receiver, to issue a warrant for giving possession of the same as aforesaid, and such warrant shall be executed forthwith, without further notice to such tenant or occupier:

If party summoned undertakes to deliver up possession and pay arrears of rent in 14 days, no warrant to issue till the expiration of that period.

If party continues in possession at the end of the 14 days, justices may issue warrant without further notice.

Provided always, that nothing herein contained shall be deemed to protect any person by whom any such warrant to deliver possession of any such premises shall be sued out as aforesaid from any action which may be brought against him by any such tenant or occupier for or in respect of such entry and taking possession, where such person had not, at the time of suing out the same as aforesaid, lawful right to the possession of the said premises.

But Act not to protect persons who have no legal right to recover possession.

16. The decision of certain disputes between employers and the persons employed by them shall be subject to the following provisions:

Master and servant.

1. It shall be lawful for the justices to hear and determine any disputes concerning any sums which shall be due for wages by any master to his apprentice, or by any employer to any artificer, labourer, servant, or other person employed by him to do any species of work or labour whatsoever (whether he shall find materials for the performance of the same or not, and whether such wages shall be due in respect to any day's work or to any labour done or performed by task, job, or contract); or which shall be due by any person for the hire of any horse, ass, mule, bullock, or other animal for draught, or of any cart, dray, car, plough, harrow, or vehicle drawn by any such animal for the purpose of any labouring work, (and not being for the carriage of any passenger or passengers,) or for the hire of any boat for the purpose of any labouring work, (and not being for the carriage of any passenger

Justices may order payment of sums due: For wages:

For the hire of horses, carts, &c.

For tuition :

(The demand
not exceeding
10*l.*)

or passengers,) and whether such hire shall be by the day or by contract or otherwise ; or which shall be due to any schoolmaster or teacher for the teaching of any child in any school or other place, and whether the engagement shall be for a payment by the day or for any other period, or in any other manner ; (provided that the amount of the demand for such wages, hire, or tuition, in any of such cases, whether originally greater or not, shall not exceed ten pounds;) and to make such order as they shall see fit for payment of such sums as shall appear to be justly due to the complainant by his master or employer, or, in case of any sum claimed for the teaching of any child, by the parent or other person who shall have engaged the complainant to teach such child :

Justices may
award further
sum to ser-
vants, &c. as
compensation
(not exceeding
40*s.*) for loss
of time in
recovering
wages.

2. Whenever it shall appear to the satisfaction of the justices that any schoolmaster, teacher, servant, artificer, labourer, or other person so employed as aforesaid has been or is likely to be detained from his home or usual place of residence, or has suffered or is likely to suffer any additional loss by reason of the nonpayment of any sum which such justices shall so adjudge to be due to him, it shall be lawful for such justices to order that there shall be paid to him by such master or employer, not only the sum so due to him, but also such further sum as compensation, not exceeding the sum of forty shillings, for the time during which he shall have been so detained from his usual place of residence, or for the loss suffered or likely to be suffered, as such justices shall think to be reasonable, having regard to the length of such detention, the diligence or remissness of either party, the usual earnings of such schoolmaster, teacher, servant, artificer, labourer, or person, and the sum which within the time of such detention he did earn, or under all the circumstances of the case might have earned :

How servants,
&c. shall re-
cover their
wages where
business is
intrusted to a
steward, &c.

3. In every case where any such master or employer shall intrust his business to the management and superintendence of any steward, agent, bailiff, foreman, or manager it shall be lawful for the justices to summon such steward, agent, bailiff, foreman, or manager to appear at petty sessions, and to hear and determine the matter of the complaint in such and the like manner as complaints of the like nature against any master or employer, and to make an order for the payment by such steward, agent, bailiff, foreman, or manager, to the complainant, of such sum or compensation as shall be justly due to him ; and in case of refusal or nonpayment of any such sum or compensation at such time as shall be directed by such justices, it shall be lawful for them to issue a warrant to levy the same by distress and sale of the goods of such master or employer :

* * * * *

5. Any servant or other person who shall hire or engage with any master or other person under any false or forged discharge or certificate of character, shall be liable to forfeit all the wages which shall be due to him by such master or person at the time of his conviction, and shall also be liable to a fine not exceeding five pounds, and in default of payment to be imprisoned for a term not exceeding three months.

Punishment of servants, &c. for hiring under false discharges, &c.

17. The decision and regulation of certain matters relating to fairs and markets shall be subject to the following provisions:

Fairs and markets.

1. Whenever any dispute shall arise between any buyer and seller relating to the terms of sale, delivery, price, or payment for any article, matter, or thing which shall be exhibited for sale in any fair or market, (and which shall not be of a greater value than five pounds), it shall be lawful for any justice within his jurisdiction either to proceed at once to hear and determine such dispute, (upon the complaint of either party, and in presence of both parties, and after causing all parties to be brought before him for that purpose,) or to adjourn the hearing thereof to the next petty sessions of the district; and it shall be lawful for such justice or the justices at such petty sessions, having examined into the said complaint upon the oath of either of the parties or of any witness or witnesses, to make an award thereon according to the merits of the case; and such award shall be in writing, and shall have the like force and effect as any order made at petty sessions:
- Justices may make awards as to disputes at sales in fairs and markets (where value does not exceed 5l.).
2. It shall be lawful for the town commissioners acting under the Lighting of Towns (Ireland) Act, 1828, and for the commissioners acting under any other local or special Acts giving them like powers in their respective towns not being corporate towns, and for the justices at petty sessions in other market towns, not being corporate towns, from time to time to appoint, by order in writing, such place or places in such towns as they shall think fit for any public or hackney car or carriage to stand in for hire; and also to make (and vary from time to time) such regulations as they shall see fit for keeping or causing to be kept free and clear from obstruction all passages or thoroughfares in and through the said markets, and for keeping or causing to be kept all said markets, and all passages therein and thereto, clear and free from any dirt or nuisances of any kind whatever, and for preventing all indecencies being committed therein; provided that no such regulations shall interfere with or impede the due accommodation of persons lawfully exposing goods or wares for sale therein; and it shall be lawful for the said town commissioners or justices, as the
- Commissioners under 9 Geo. 4. c. 82., &c. and justices to appoint stands for cars, &c.;
- and make regulations as to thoroughfares in markets, &c.

case may be, to give due notice of such regulations, by causing the same to be painted on a board, and affixed in some conspicuous place in any such market, in like manner as schedules of tolls and customs in markets are now required by law to be affixed :

Punishment
for the follow-
ing offences:
Breaking the
regulations, &c.

And any person who shall commit any of the next following offences shall be liable to the punishment herein-after specified :

3. Any person who shall offend against any of the said regulations, by exhibiting goods or wares in any such market in any place other than that appointed for the sale of the same, or by refusing to remove the same when required so to do, or by obstructing the passages or thoroughfares in and through such market, or by placing or leaving any impediment of any kind therein, or by leaving or causing to be left any dirt or nuisance of any kind therein, or who shall commit any indecency in said market or in the passages thereto, shall be liable to a fine for a first offence not exceeding five shillings, and for a second offence not exceeding ten shillings :

Leaving
vehicles stand-
ing in streets,

4. Any person who shall, within any city, borough, or market town in Ireland, or within a quarter of a mile from the boundary thereof, cause any cart, dray, waggon, or other such carriage, or any public or hackney car or carriage, to stand in any public road or street longer than may be reasonable or necessary for loading or unloading, or for taking up or setting down passengers, (except any cart, dray, waggon, or other such carriage lawfully standing in any place customarily used for such purpose in any public market or fair, and except any public or hackney car or carriage standing for hire in any place which shall be fixed as a standing for that purpose in manner aforesaid,) shall be liable to a fine not exceeding twenty shillings.

[S. 18 *rep.* 23 & 24 *Vict. c.* 119, s. 4.]

Impounding
distresses.

19. The decision and regulation of certain matters relating to the establishment and use of pounds for the impounding of distresses, or of animals found trespassing, wandering, or straying, shall be subject to the following provisions :

Establishment
of pounds.

1. It shall be lawful for the justices of each petty sessions district, whenever there shall be no pound or an insufficient number of pounds established therein, to authorize the establishment of such pound or pounds in such place or places in such district (not being within any manor in which a manor pound shall have been already established) as they shall think necessary ; and it shall be lawful for the grand jury of the county, upon the requisition of any three or more of such justices, to present such sum, not exceeding ten pounds, as they shall think fit, (to be levied off the county in like manner as any other sums presented by the grand jury,) for the erection, part

Grand jury
may present
expence of
erecting or
repairing
pounds.

erection, or repair of any pound, upon such condition as they shall fix as to the keeper of such pound paying to the treasurer of the county, for the use of the county, any sum not exceeding forty shillings as an annual rent for the same; and it shall be lawful for the said justices from time to time to appoint some fit person to be the keeper, during their pleasure, of any pound upon which any sum so pre-ented shall have been expended:

Justices to appoint keepers of county pounds.

2. It shall not be lawful for any person to act as the keeper of any pound now or hereafter to be established, (except of a manor pound,) unless he shall be authorized so to act by the justices of the petty sessions district in which such pound shall be situated, by licence in writing signed by any two or more of them, and which licence such justices are hereby authorized to give, and also from time to time to withdraw in case of the neglect or misconduct of such person: Provided always, that every pound so to be licensed shall be of such area as the said justices shall think fit, and that the walls thereof shall be at least seven feet high, and securely built, either of stones or bricks, or of such other material as the said justices shall think sufficiently substantial:
3. Any person so licensed shall, before acting as such pound keeper, enter into recognizance, (in like form and manner as any clerk of petty sessions is required to do under the said Petty Sessions Act,) himself in such sum not less than ten pounds, with two sureties in such sum not less than five pounds each, as the justices shall fix, conditioned for the due discharge of his duties as pound keeper under this Act, and shall from time to time renew the same when required by such justices:
4. Every pound keeper shall be entitled to receive from the person by whom any animal shall be impounded in such pound, or from the owner when such animal shall be delivered up to such owner by proper authority, the following pound fees:

No persons to act as pound keepers unless when licensed by the justices.

Area and walls of county pounds.

Pound keeper to enter into recognizance.

14 & 15 Vict. c. 93.

Pound fees to be as follows.

For any one horse, mare, mule, or horned beast,	
for any time not exceeding seventy-two hours	6d.
And for any greater number of same, for same period, each	3d.
And if impounded for longer than seventy-two hours, one half of the above sums for every additional seventy-two hours:	
For any one sheep, calf, lamb, goat, or pig, for any period not exceeding seventy-two hours	2d.
And for any greater number of same, for the same period, each	1d.
And if impounded for longer than seventy-two hours, one half of the above sums for every additional seventy-two hours:	

Rates of sustenance to be fixed by justices.

He shall also be entitled to demand and receive from the like owner or person, as the case may be, such sum for the sustenance of any such animals, for the time during which they shall be so impounded, as the said justices shall fix as the proper rates of sustenance for animals impounded in such pound, and which they are hereby required to do by writing under their hands :

Tables of fees and rates to be posted.

5. The pound keeper shall post and continue posted, in a conspicuous place on or close to his pound, a table of the scale of the pound fees authorized by this Act, and also a table of the rates which shall be so fixed by the justices for the sustenance of animals impounded therein

No animals to be impounded in any other than a licensed pound or manor pound, except in cases of emergency.

6. No animals (except in cases of distresses for rent) shall be impounded in any other place than in the nearest pound of the county so licensed (or in the pound of the manor), unless where any assault shall be threatened or made upon the person impounding or proceeding to impound any animal, or where any rescue of such animal shall be attempted or threatened, and the impounding in any other place shall be necessary for the detention of such animal, or the safety of such person :

Notice of impounding to owner, &c.

7. Whenever any animal shall be impounded in any pound, the person by whom such animal shall be impounded shall at the time give notice to the pound keeper, and also to the owner of such animal (when known), specifying the parish and townland in which such animal shall have been seized, and the reasons for impounding the same ; and when given to the owner, he shall specify the pound in which such animal shall have been impounded.

Public notice of impounding to be given by pound keeper and constabulary.

8. And whenever any animal found wandering or straying shall be impounded in any pound, the pound keeper shall immediately give a notice to the sub-inspector, head or other constable, of the nearest constabulary station, describing such animal, and stating the parish and townland where such animal shall have been seized (unless where such animal shall have been impounded by any member of the constabulary force); and such sub-inspector, head or other constable, shall post such notice (or a like notice when the animal shall have been impounded by any member of the constabulary force), and keep the same posted at such station until such animal shall be claimed or otherwise disposed of according to law ; and whenever the owner of such animal cannot be discovered, it shall be lawful for the justices of the petty sessions district, upon being satisfied that all possible means have been adopted for the discovery of the owner, and that he cannot be discovered, to direct that the same shall be sold by the sub-inspector of constabulary of the district in like manner as any animal may be sold under any warrant of distress (due

When owner of straying animal cannot be found, it may be sold.

notice of such sale, and of the parish and townland where such animal shall have been seized, having been previously posted by such sub-inspector at the constabulary station, and also in some conspicuous place in the parish where such animal shall have been seized, and also at the place where impounded, forty-eight hours at the least before the time of sale); and the proceeds of such sale, after paying to the keeper of the pound the amount due to him for pound fees and for the rates of sustenance of such animal, shall be paid over to the treasurer of the county, to the credit of the county, in any case when the grand jury of such county shall have presented any sum for the erection of any pound therein; but when no sum shall have been so presented, such surplus proceeds shall be applied in like manner as any penal sums payable to the Crown, or, with the consent of the chief ~~or under~~ secretary to the Lord Lieutenant, may be applied by the said justices in the erection or repair of any pounds within the petty sessions district.

Notice of sale to be posted.

How produce of sale to be applied.

5. 2. 1851

And any person who shall be guilty of any of the next following neglects or offences shall be liable to the punishment herein-after specified:

Punishment for the following offences:

9. Any pound keeper who shall act as such without being duly authorized by the justices, and without having duly entered into a recognizance in manner aforesaid, or who shall neglect to keep such pound clean and well supplied with wholesome water, and in such a secure and wholesome state as shall insure the due forthcoming and health of the animals impounded, or who shall demand or receive any sum for the keeping or sustenance of any animals in such pound greater than the sums fixed by this Act or by the justices as aforesaid, as the case may be, or who shall neglect to feed any animal impounded in such pound, or who shall omit to post in a conspicuous place any such table or notice, or to give any such notice, as is directed by this Act, or who shall without due authority liberate or permit to be liberated from such pound any animal impounded therein, or who shall refuse or neglect, when required by the justices, to give up to them any pound built in the whole or in part at the expence of the county, shall be liable to a fine not exceeding ten pounds:

Offences by pound keepers.

10. Any person who shall rescue or attempt to rescue any animal out of any such pound or out of any other place in which any animal shall be impounded for greater safety, under the circumstances herein-before mentioned, or who shall break down or injure any such pound or place, or do any act by means of which any animal impounded therein shall escape or be unlawfully liberated therefrom, shall be liable to pay the amount of the

Persons rescuing impounded animals, or injuring pounds, &c.

injury done, and also a fine not exceeding ten pounds ; but in every case of the commission of any such offence in rescuing or attempting to rescue any distress, or in breaking or injuring any pound, the justices shall, if they shall so think fit, abstain from adjudicating summarily thereon, and deal with the same as a case to be tried by indictment at the assizes or quarter sessions :

Impounding
elsewhere than
in licensed
pound, &c.

11. Any person who shall impound any animal (except in cases of distresses for rent), in any other place than in a manor pound, or in such pound as shall be licensed under the provisions of this Act (except under the circumstances herein-before mentioned), or who shall omit to give such notice to the pound keeper or to the owner of any animal impounded as is required by this Act, or who shall wilfully damage or injure any animal while driving or conveying the same to any pound, shall be liable to a fine not exceeding five pounds :

Saving as
to manor
pounds.

Provided always, that nothing herein contained shall interfere with the right of any lord of a manor to establish or continue any manorial pound for the impounding of distresses made in such manor, which he is now by law entitled to establish or continue, or to appoint from time to time any person to be keeper of such pound ; but the regulation of such pound, and the duties of such pound keeper, shall in all other respects be subject to the provisions of this Act, in like manner and to the like extent as any pound established or any pound keeper licensed by the justices at petty sessions in manner aforesaid.

*Trespass
of animals.*

20. The decision and regulation of certain matters relating to the trespass of animals shall be subject to the following provisions :

No impound-
ing for
trespass,
when owner
of animals is
known ; but
occupier of
land shall
deliver up
animals found
trespassing to
their owner,
and shall
then be
entitled to the
following
rates of
trespass.

1. It shall not hereafter be lawful to impound any animal found trespassing upon any land when the owner of such animal shall be known ; but the occupier of such land or the person by whom such animal shall be found trespassing shall either deliver up such animal to the owner, or to his steward, herdsman, caretaker, or other servant, or he shall show such animal in the act of trespassing to such owner, steward, herdsman, caretaker, or other servant, and allow such animal to be taken away by him ; and the owner of such animal shall thereupon be liable to pay to the occupier of such land the rate of trespass fixed by the following scale (or according to such scale as the justices at quarter sessions shall from time to time fix, and which they are hereby authorized to do if they shall see fit) :

Where the trespass shall be on any common pasture land, or on any arable uncropped land, the rate shall be :

For every horse, mare, pony, mule, ass, s.	d.
bull, cow, bullock, heifer, or pig - - -	0 6
For every calf, sheep, or lamb - - -	0 2
For every goose - - - - -	0 1
For every other fowl - - - - -	0 0½
For every goat - - - - -	3 0

And where the trespass shall be upon any fattening pasture or meadow land, or upon any land cropped with corn, peas, flax, vetches, turnips, rape, potatoes, green crop, or other cultivated vegetable, or by any goat in a plantation, the rates shall be double the amount of the preceding rates :

2. But when the owner of any such animal shall not be known, it shall be lawful for the occupier of such land, or for his servant, or for any other person on his behalf, to impound such animal in the nearest pound of the county (or in the pound of the manor,) specifying in the notice which he is required to give to such pound keeper (under the provisions herein-before contained relating to the impounding of animals) the nature of the land or crop in which such animal shall have been found trespassing ; and such pound keeper shall afterwards deliver up such animal to the owner, if known, or to any person on his behalf, either upon being so authorized in writing by any justice, or upon being paid by such owner or person the amount legally due for pound fees and rates of sustenance, and also the amount due under the above scale of rates for a trespass on any land or crop of the nature specified in such notice ; and such pound keeper shall thereupon pay over the amount of such rate of trespass to the person by whom such animal shall have been impounded, unless when required by any justice, or by such occupier by notice in writing, to hold over the same until any dispute as to the same shall have been decided at petty sessions :

But when owner of animal is not known, it may be impounded.

Pound keeper to deliver up animal to owner, on authority of justice, or on payment of rates, &c.

Pound keeper to pay over rates of trespass, except in certain cases.
3. Whenever either the occupier of such land or the owner of such animal shall not be satisfied with the amount of such rates (whether paid at the time or not), it shall be lawful for the justices at petty sessions, upon complaint of such occupier or owner, to investigate the case, and to make such award against either party as shall seem just, under all the circumstances ; and the principle upon which they shall make such award shall be, that the owner of such animal shall be deemed liable to pay to such occupier the above rate for a first trespass, and double the above rate for a second trespass, and treble the above rate for a third or subsequent trespass, (whether any actual damage shall have been done or not,) unless they shall be satisfied that such trespass was caused by any neglectful conduct on the part of such occupier, or

When parties are not satisfied, justices to investigate the case and make an award according to the principles herein prescribed.

Justices, in case of actual damage done, may award compensation.

Justices may allow credit for, or order refunding of any amount already paid, according to the case.

Justices may order repair of fences by person who ought to repair the same.

Punishment for the following offences :

Impounding, when owner is known, &c.

that there are any other justifying circumstances, in which case they may declare him to be entitled either to no rates or to a part only of the rates ; and in any case where any actual damage shall have been done by such trespass, it shall be lawful for the justices to award a like payment of such further sum as, together with any rates awarded, shall be equal to the value of such damage as shall be proved to their satisfaction to have been actually caused by such trespass ; and in making any such award, the justices shall allow credit to the owner of such animal for the amount of any rate of trespass paid by him at the time ; or where they shall award either no rates or a lesser amount than any sum so paid at the time, they may order that the whole or a part of such sum, as the case may be, shall be refunded to such owner :

4. Whenever it shall appear, in any case in which any complaint of trespass shall be so made, that the trespass shall have been caused by the bad or imperfect state or destruction of any fences, it shall be lawful for the justices at petty sessions by order in writing to direct that the occupier of the land to which such fences shall belong shall repair the same when wholly on his land, or join in repairing the same when partly on his land, within such reasonable time as they shall fix for that purpose ; and in default of his so doing within such time, it shall be lawful for such justices, by a like order in writing, to authorize such fences to be repaired by the person who shall have been aggrieved by any such trespass, who may thereupon enter and repair the same ; and afterwards, upon proof of the expences incurred by such person in making such repairs beyond what he may be himself bound to expend in case of fences common to both parties, it shall be lawful for such justices to order that the same shall be paid (to any amount not exceeding two shillings per perch) by such occupier, unless it shall be shown that the person under whom such occupier shall hold is bound by any lease or agreement to keep such fences in repair, in which case such amount shall be paid by such person ; and in default of such payment it shall be lawful for such justices to order that such amount shall be levied by distress of the goods of such occupier or person, as the case may be, and paid over to the person by whom such repairs shall have been made.

And any person who shall be guilty of any of the next following neglects or offences shall be liable to a fine not exceeding five pounds :

5. Any person who shall impound any animal found trespassing, where the owner of such animal shall be known to him, or who shall impound any animal without

giving to the pound keeper the notice required by this Act :

6. Any pound keeper who shall neglect or refuse to deliver up any animal so impounded to the owner, when authorized in writing by any justice so to do, or upon such owner paying to him the amount of the pound fees and rates of sustenance legally due and the amount legally due for the trespass, or who shall neglect (except when any justice shall authorize him to hold over the same until the decision of any dispute as to the same at petty sessions) to pay over to the person entitled to receive the same the amount which shall be paid to him for the trespass upon the liberation of any such animal :

Pound keeper neglecting to liberate animals, &c.

Provided always, that in all such proceedings under this Act it shall be lawful for the justices to adopt such means as they shall see fit, either by the employment of a valuator or arbitrators or otherwise, for the purpose of informing themselves as to the amount of any damage done, or as to any other circumstances proper to be inquired into on the spot, or as to any other facts of the case upon which they shall be required to decide ; and they may (if they shall think it necessary) order the parties or either of the parties to pay to any person so employed such reasonable sum as they shall fix, not exceeding two shillings and sixpence per day, as remuneration for his trouble.

Justices may adopt such means of proof as they shall see fit.

21. Where any person shall be convicted of any offence against this Act, and it shall be a first conviction, it shall be lawful for the justices, if they shall so think fit, to discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs or either of them, as shall be ascertained by the justices.

General Provisions.

The justices may discharge the offender, in certain cases.

22. It shall be lawful for the Lord Lieutenant to extend the royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for nonpayment of money to some party other than the Crown.

Pardon to persons imprisoned for nonpayment of money.

23. In any case where an order shall be made under the provisions of this Act for the payment of any penal or other sum exceeding twenty shillings, or for any term of imprisonment exceeding one month, or for doing anything at a greater expence than twenty shillings, (but in no other case,) either party, (whether he shall be the complainant or defendant,) in cases of a civil nature, or the person against whom any such order shall have been made in other cases, shall be entitled to appeal to the next quarter sessions to be held in the same division of the county when the order shall be made by any justice or justices in any petty sessions district, or to the recorder at his next sessions when the order shall be made by the said divisional justices in the police district of the Dublin Metropolis, or to the recorder of any corporate or borough town

In what cases appeals shall be permitted.

Appeals to be made to next quarter sessions of division, or to recorder's next sessions.

Quarter sessions, &c. may decide appeal, subject to the provisions of 14 & 15 Vict. c. 93. as to form, notices, &c.

when the order shall be made by any justice or justices in such corporate or borough town (unless when any such sessions shall commence within seven days from the date of any such order, in which case, if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town); and it shall be lawful for such court of quarter sessions or recorder, as the case may be, to decide such appeal, if made in such form and manner and with such notices as are required by the said Petty Sessions Act as to appeals against orders made by justices at petty sessions; and all the provisions of the said Petty Sessions Act as to making appeals, and as to executing the orders made on appeal or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal or like order to be made under the provisions of this Act.

No order, &c. shall be quashed for want of form, &c.

24. No order made under the provisions of this Act, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record.

Interpretation.

25. In the interpretation of this Act, save where there is anything in the subject or context repugnant to such construction . . . the word "justice" shall mean "justice of the peace," and shall include a "divisional justice" of the police district of Dublin Metropolis, or "chief magistrate" of any corporate town; the word "county surveyor" shall include and mean any district surveyor in the county of Dublin; the word "petty sessions" shall include a "divisional police office" of Dublin Metropolis; ~~the word "gaol" shall include any "house of correction" or "bridewell" of the county to which any person may be legally committed by any justice;~~ the word "road" shall include "highway" or other public thoroughfare, and "street" shall include any lane or passage in any town; and the word "horse" shall include any other animal of any kind commonly used or employed in drawing any kind of carriage.

[*Ss. 26, 27 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Extent of Act.

28. This Act shall extend and be construed to extend to Ireland only.

Short title.

29. In citing this Act in other Acts of Parliament, or in any legal instrument or proceedings, it shall be sufficient to use the expression "The Summary Jurisdiction (Ireland) Act, 1851."

CHAPTER XCIII.

AN ACT to consolidate and amend the Acts regulating the Proceedings at Petty Sessions, and the Duties of Justices of the Peace out of Quarter Sessions, in Ireland.[¹]

[7th August 1851.]

[*Preamble.*]

1. The several petty sessions districts into which any county or riding of a county in Ireland is now divided, and the places and times at which petty sessions are now appointed to be held therein, shall, until altered in the manner herein-after provided, be the several districts, places, and times in such county or riding for the purposes of this Act: But whenever it shall appear to the justices at quarter sessions that any of the said districts, places, and times now fixed (or which shall hereafter be fixed) in any county or riding require alteration, or whenever they shall be called upon so to do either by the Lord Lieutenant or by a requisition signed by any seven or more of the justices of any county or riding, they shall proceed at the next quarter sessions which shall be held for such county or riding, or at any adjournment of the same for that purpose, to revise the said districts, places, and times, subject to the following provisions:

Division of the county into petty sessions districts, and arrangements to be made by quarter sessions.

1. They shall divide such county or riding into convenient petty sessions districts for the purposes of this Act, and shall declare the several parishes or townlands of which each of such districts shall consist; and in so doing it shall be lawful for them, with the concurrence of the justices of any adjoining county assembled at any like quarter sessions, or at any adjournment of the same, to include in any of such districts any townlands of such adjoining county, where it shall be conducive to the public convenience, and where no part of such townlands shall be at a greater distance than seven miles from the place where petty sessions shall be held for the district to which same shall be annexed:
2. They shall also fix some one convenient place within each district at which petty sessions shall be held for the same:
3. They shall also fix the times when petty sessions shall be regularly held in each district; but it shall be lawful for the justices of each district afterwards to fix the particular days in each week upon which such petty sessions shall be held:

And whenever any of the said districts, places, and times shall have been so fixed or altered, the clerk of the peace shall forthwith enter all particulars as to the same in the Crown book, and

[¹ Short title, "The Petty Sessions (Ireland) Act, 1851." See s. 45.]

shall transmit a certified copy of such entries to the secretary of the grand jury, to be laid before such grand jury at the then next ensuing assizes, (and in the county of Dublin at the then next ensuing presentment term,) and the same shall be printed with the presentments: Provided always, that when it shall appear to such justices at quarter sessions that such alteration is required, or whenever a requisition for the consideration of an alteration shall be received from the Lord Lieutenant, or from seven or more justices as aforesaid, the clerk of the peace of the county shall transmit a notice in writing of the intended consideration of such alteration to every justice of the county or riding, as the case may be; and such notice, stating the time and place appointed for the consideration of such alteration, shall be transmitted at least one month before the time so appointed.

[*Ss. 2 (appointment of clerk of petty sessions) 3, 4 rep. 21 & 22 c. 100. s. 4. See now s. 7 of that Act.*]

Duties of clerk
of petty
sessions.

5. The clerk of petty sessions shall perform the following duties :

1. He shall make, when required by any of the justices, a minute of all special proceedings, taken either in or out of petty sessions, in a book to be kept for that purpose, to be called the "Minute Book," and shall also make such entries in the "Order Book" (form D.) herein-after mentioned, as the justices shall direct :
2. He shall also have the care and custody of such books, subject to their being kept at the court house or place where the petty sessions shall be held, or otherwise as the justices shall direct, and also subject to their being at all times open to the inspection of the justices and of any other person or persons whom the Lord Lieutenant may at any time appoint to examine the same :
3. He shall also prepare, under the directions of the justices, all informations, summonses, examinations, warrants, recognizances, and other documentary forms of proceeding :
4. He shall retain, or (if so directed by the justices) shall copy or cause to be copied into a book to be kept for the purpose, all orders or circulars, or opinions of the law officers or advisers of the Crown, addressed or transmitted to the justices, and shall also make copies of all informations, depositions, or examinations, when so directed by the justices, and shall also retain copies of all abstracts or schedules of documents transmitted to the clerks of the Crown and peace as herein-after provided :
5. He shall enter all cases in the order in which the summonses shall be issued at petty sessions, or, if issued out of petty sessions, then in the order in which the application shall be made to him by the complainant or his agent to enter the same :

6. He shall enter a true account of all sums paid into court under any orders of the justices, and of all warrants issued for the execution of any such orders, and of all sums levied under the same and paid over to him (whether the said sums shall be in the nature of penalties for offences, or sums awarded in cases of a civil nature,) and shall otherwise account and act as to the same as required by the provisions of the Fines Act, Ireland, 1851, as to any penal sums : 14 & 15 Vict.
c. 90.

7. He shall also make such returns of the proceedings at petty sessions as the chief ~~or under~~ secretary of the Lord Lieutenant shall from time to time require, and shall observe such general regulations in respect to the discharge of his several duties as the Lord Lieutenant shall from time to time prescribe :

S.L.R. 195.

And when required by the clerks of the Crown or peace, as the case may be, the clerk of petty sessions shall attend the assizes or quarter sessions to which any informations, examinations, or recognizances shall be returned by him, or to which any informations, examinations, or recognizances prepared by him shall be returned, and as to which any complaint shall have been made against him for neglect, to answer such inquiries respecting the same as shall be made by the court; and in case it shall appear that such clerk shall have committed any wilful default or neglect in preparing or in transmitting the same, or shall have improperly divulged the contents of such informations or examinations, it shall be lawful for the judge of assize or for the justices at quarter sessions, as the case may be, for every such offence to impose a penalty not exceeding twenty pounds on the said clerk, and in default of payment of the same to commit him to gaol for any term not exceeding three months.

6. Whenever a vacancy shall occur by reason of the death, resignation, suspension, or dismissal of any clerk of petty sessions, the sub-inspector of constabulary, or the head constable of the district, or such other person as the justices shall authorize, shall take charge of all books, papers, and other effects belonging to the said petty sessions, and shall retain them in his care and custody until a successor shall be appointed to such clerk; and it shall be lawful for any justice, upon being satisfied upon oath that any such books, papers, or other effects as aforesaid are or are suspected to be in the possession of any person who shall refuse to deliver up the same to such sub-inspector, head constable, or other person so authorized, to issue a warrant to any sub-inspector, head or other constable, to search the house of such person for the same, and to seize and detain the same, if discovered therein; and such sub-inspector, head or other constable, so authorized by any such warrant, may, upon the refusal of such person to open his door for that purpose, break it open.

Custody of books, &c. on death, suspension, or dismissal of clerk.

Local jurisdiction of justices and constabulary.

7. The powers of justices and others to act in and for different localities shall be subject to the following provisions :

1. A justice for any county may act as such in all matters arising within such county, although he may at the time happen to be in an adjoining county, provided he shall be also a justice for such adjoining county :
2. A justice for any county may in like manner act as such in all matters arising within such county, although he may at the time happen to be in any city, town, or place, being a county of itself, situate within or adjoining to such first-mentioned county, whether he shall be a justice of such city, town, or place, or not ; but nothing herein contained shall extend to empower any justice for any county, not being also justice for any such city, town, or place as aforesaid, or any person acting under him, to act or intermeddle in any matters arising within any such city, town, or place :
3. The inspector general, or either of the deputy inspectors general of constabulary, being a justice of any county, may act in all matters arising within such county, wherever he may happen to be at the time :
4. Whenever any townland belonging to one county shall be included in any petty sessions district of the adjoining county under the provisions of this Act, any justice having jurisdiction in such petty sessions district shall have the like jurisdiction in such townland, although he may not be a justice of the county to which such townland belongs ; and any committal to any gaol or bridewell of such last-mentioned county, or any other magisterial act done by any such justice, in any case in which the offence or cause of complaint shall have arisen in such townland, shall have the like force and effect as if such justice was also a justice of such last-mentioned county :

And all constables or other persons apprehending any person whom they lawfully may and ought to apprehend by virtue of their office or otherwise in any such county or place as aforesaid, may lawfully convey such person before any justice for such county or place whilst such justice shall be in such adjoining county or place as aforesaid ; and such constables or other persons are hereby authorized and required in all such cases to act in all things as if such justice were within the county or place for which he shall so act.

Place for hearing.

8. The places where justices shall sit in the discharge of their duties shall be subject to the following provisions :

1. Whenever a public court house shall be maintained by county presentment at any place fixed for the holding of petty sessions, the petty sessions shall be held therein, if not inconvenient to the public ; but whenever no such public court house shall be so maintained, or the holding of petty sessions therein would be inconvenient to the

public, it shall be lawful for the grand jury of the county to present an annual sum not exceeding ten pounds for the rent of a public justice room in which the petty sessions shall be held, and of a lock-up; provided that such room shall not be in a house where spirituous or fermented liquors are sold, or in a constabulary barrack, or in any building maintained in the whole or in part at the public expence; and that it shall be proved to the satisfaction of the county presentment sessions where application shall be made for such rent that at least four meetings of justices shall have been held in such room during the four months next preceding such application :

2. It shall not be lawful for any justice or justices to hear and determine any cases of summary jurisdiction out of petty sessions, except cases of drunkenness or vagrancy, or fraud in the sale of goods, or disputes as to sales in fairs or markets; but it shall be lawful for two justices, if they shall see fit, to hear and determine out of petty sessions any complaint as to any offence when the offender shall be unable to give bail for his appearance at petty sessions :

In summary proceedings complaint not to be heard or determined out of petty sessions, except in certain cases.

Provided always, that nothing herein contained shall be construed to prevent any justice or justices acting out of petty sessions from making any order (not being in the nature of a conviction, or of an adjudication upon a complaint), which a justice or justices may be authorized or required by law to make.

9. The right of the public to have access to the place in which justices shall sit shall be subject to the following provisions :

Publicity of proceedings.

1. In all cases of summary proceedings the place in which any justice or justices shall sit to hear and determine any complaint shall be deemed an open court, to which the public generally may have access, so far as the same can conveniently contain them; and the parties by and against whom any complaint or information shall there be heard shall be admitted to conduct or make their full answer and defence thereto respectively, and to have the witnesses examined and cross-examined, by themselves or by counsel or attorney on their behalf :
2. In all cases of proceedings for indictable offences the place in which any justice or justices shall sit to take any examination or statement relating to any such offence shall not be deemed an open court for that purpose; but it shall be lawful for such justice or justices, in his or their discretion, to order that no person (the counsel or attorney of any person then being in such court as a prisoner only excepted) shall have access to or be or remain in such place without the consent or permission

of such justice or justices, if it appear to him or them that the ends of justice will be thereby best answered :

Contempt of
Court.

And if any person shall wilfully insult any justice or justices so sitting in any such court or place, or shall commit any other contempt of any such court, it shall be lawful for such justice or justices by any verbal order either to direct such person to be removed from such court or place, or to be taken into custody, and at any time before the rising of such court by warrant to commit such person to gaol for any period not exceeding seven days, or to fine such person in any sum not exceeding forty shillings.

Informations
and com-
plaints.

10. Whenever information shall be given to any justice that any person has committed or is suspected to have committed any treason, felony, misdemeanor, or other offence; within the limits of the jurisdiction of such justice, for which such person shall be punishable either by indictment or upon a summary conviction; or that any person has committed or is suspected to have committed any such crime or offence elsewhere out of the jurisdiction of such justice, either in Great Britain or Ireland, or in the Isles of Man, Jersey, Guernsey, Alderney, or Sark, and such person is residing or being, or is suspected to reside or be, within the limits of the jurisdiction of such justice; or that any person has committed or is suspected to have committed any crime or offence whatsoever on the high seas, or in any creek, harbour, haven, or other place in which the Admiralty of England or Ireland have or claim to have jurisdiction, or on land beyond the seas, for which an indictment can be legally preferred in any place in the United Kingdom of England and Ireland, and such person is residing or being, or is suspected to reside or be, within the limits of the jurisdiction of such justice; or whenever a complaint shall be made to any justice as to any other matter arising within the limits of his jurisdiction, upon which he shall have power to make a summary order, it shall be lawful for such justice to receive such information or complaint, and to proceed in respect to the same, subject to the following provisions :

1. Whenever it is intended that a summons only shall issue to require the attendance of any person, the information or complaint may be made either with or without oath, and either in writing or not, according as the justice shall see fit :
2. But whenever it is intended that a warrant shall issue for the arrest or committal of any person, the information or complaint shall be in writing, and on the oath of the complainant or of some person or persons on his behalf :
3. Whenever any such information shall have been taken on oath and in writing that any person has committed or is suspected to have committed any indictable crime or offence (or any offence for which such person shall be punishable upon summary conviction, and for whose

arrest the justice shall issue a warrant), it shall be lawful for the justice, if he shall see fit, to bind the informant or complainant by recognizance (A a.*) or (C.) to appear at the court or place where the defendant is to be tried or the complaint is to be heard to prosecute or give evidence, as the case may be, against such person :

4. In all cases of summary jurisdiction the complaint shall be made, when it shall relate to the nonpayment of any poor rate, county rate, or other public tax, at any time after the date of the warrant authorizing the collection of the same, and, when it shall relate to the nonpayment of money for wages, hire, or tuition, within one year from the termination of the term or period in respect of which it shall be payable, and, when it shall relate to any trespass, within two months from the time when the trespass shall have occurred, and in any other case within six months from the time when the cause of complaint shall have arisen, but not otherwise :

And in all cases of summary jurisdiction any person against whom any such information or complaint shall have been made in writing shall, upon being amenable or appearing in person or by counsel or attorney, be entitled to receive from the clerk of petty sessions a copy of such information or complaint, on payment of the sum of sixpence to such clerk ; and such clerk shall in no case allow the original information or complaint to be taken out of his possession.

11. The manner in which persons against whom any such informations or complaints as aforesaid shall have been received by any justice shall be made to appear to answer to the same shall be subject to the following provisions :

Process to
enforce
appearance.

1. In all cases of indictable crimes and offences (where an information that any person has committed the same shall have been taken in writing and on oath) the justice shall issue a warrant (B b.) to arrest and bring such person before him, or some other justice of the same county, to answer to the complaint made in the information (and which warrant may be issued or executed on a Sunday as well as on any other day); or if he shall think that the ends of justice would be thereby sufficiently answered, it shall be lawful for him, instead of issuing such warrant, to issue a summons in the first instance to such person, requiring him to appear and answer to the said complaint ; but nothing herein contained shall prevent any justice from issuing a warrant for the arrest of such person at any time before or after the time mentioned in such summons for his appearance ; and whenever such person shall afterwards appear or be brought before any such justice, he shall proceed according to the provisions herein-after contained as to taking the evidence against such person, and committing such person for trial :

2. In all cases of summary jurisdiction the justice may issue his summons (B a.) directed to such person, requiring him to appear and answer to the complaint; and it shall not be necessary that such justice shall be the justice or one of the justices by whom the complaint shall be afterwards heard and determined; and in all cases of offences where such person shall not appear at the required time and place, and it shall be proved on oath either that he was personally served with such summons or that he is keeping out of the way of such service, (the complaint being in writing and on oath,) the justice may issue a warrant to arrest and bring such person before him or some other justice of the same county, to answer to the said complaint; and when such person shall afterwards be arrested under such warrant, the justice before whom he shall be brought may either by warrant (E b.) commit him to gaol, until the hearing of the complaint, or may discharge him upon his entering into a recognizance (C.), with or without sureties, at the discretion of the justice, conditioned for his appearance at such hearing:

And each summons or warrant shall be signed by the justice or one of the justices issuing the same, and it shall state shortly the cause of complaint, and no summons or warrant shall be signed in blank; and in every case where the offence shall have occurred or the cause of complaint shall have arisen within the petty sessions district for which the justice issuing any such summons or warrant shall act, but the party or witness to whom such summons shall be directed or against whom such warrant shall be issued shall reside in an adjoining county, it shall be lawful for such justice to compel the appearance of such party or witness at the hearing of the charge or complaint within such district, in like manner as if such party or witness resided in such district, although such justice may not be a justice of such adjoining county.

Service of
summonses.

12. The manner in which summonses shall be served shall be subject to the following provisions:

1. It shall be lawful for the justices of each petty sessions to appoint some one or more persons, who shall be able to read and write, to act as summons server or servers of the district during the pleasure of such justices; . . .
2. In cases of offences prosecuted by the constabulary the summons shall be served by a head or other constable; but in all other cases it may be served by the summons server of the district, or (if the justice issuing the same shall so direct or permit) by any other person whom the complainant shall employ, and who shall be able to read and write, but in no case by the complainant himself:
3. Every summons shall be served upon the person to whom it is directed by delivering to him a copy of such summons, or, if he cannot be conveniently met with, by leaving such copy for him at his last or most usual place of abode, or

at his office, warehouse, counting-house, shop, factory, or place of business, with some inmate of the house not being under sixteen years of age, a reasonable time before the hearing of the complaint; and such last-mentioned service shall be deemed sufficient service of such summons in every case except where personal service shall be specially required by this Act; and in every case the person who shall serve such summons shall endorse on the same the time and place where it was served, and shall attend with the same at the hearing of the complaint to depose, if necessary, to such service:

Provided always, that nothing herein contained shall be construed to affect the provisions of any Act authorising the substitution of service in particular cases.

13. Whenever it shall be made to appear to any justice that any person within the jurisdiction of such justice is able to give material evidence for the prosecution in cases of indictable offences, or for the complainant or defendant in cases of summary jurisdiction, and will not voluntarily appear for the purpose of being examined as a witness, such justice may proceed as follows:

Powers to
enforce
attendance of
witnesses.

1. He may issue a summons (B a.) to such person, requiring him to appear at a time and place mentioned in such summons, to testify what he may know concerning the matter of the information or complaint, and (if the justice shall see fit) to bring with him and produce for examination such accounts, papers, or other documents, as shall be in his possession or power, and as shall be deemed necessary by such justice; but in any case of an indictable crime or offence, whenever the justice shall be satisfied by proof upon oath that it is probable that such person will not attend to give evidence without being compelled so to do, then, (the information or complaint being in writing and on oath,) instead of issuing such summons as aforesaid, he may issue a warrant (B b.) in the first instance for the arrest of such person:
2. And in any case, when any person to whom a summons shall be issued in the first instance shall neglect or refuse to appear at the time and place appointed by such summons, and no just excuse shall be offered for such neglect or refusal, then, (the information or complaint being in writing and on oath,) after proof upon oath that such summons was personally served upon such person, or that such person is keeping out of the way of such service, and that he is able to give material evidence in the case, the justice before whom such person should have appeared may issue a warrant (B b.) to arrest such person, and to bring him at the time and place appointed for the hearing of the case, to testify and to produce such accounts, papers, and documents as may be required as aforesaid:

3. In all cases of prosecutions for offences the evidence of the informer or party aggrieved shall be admissible in proof of the offence; and in all cases of complaints on which a justice can make an order for the payment of money, or otherwise, the evidence of the complainant shall be admissible in proof of his complaint; and in cases of wages, hire, or tuition the evidence of the master or employer may, in the discretion of the justices, be admitted in proof against the complaint:
4. All witnesses shall be examined upon oath; and any justice before whom any such witness shall appear for the purpose of being so examined shall have full authority to administer to every such witness the usual oath.
5. Whenever any person shall appear as a witness, either in obedience to a summons or by virtue of a warrant, (or shall be present, and shall be verbally required by the justice or justices to give evidence,) and he shall refuse to be examined upon oath concerning the matter of the information or complaint, or shall refuse to take such oath, or having taken such oath shall refuse to answer such questions concerning the said matter as shall then be put to him, or shall refuse or neglect to produce any such accounts, papers, or documents as aforesaid, (without offering any just excuse for such refusal,) the justice or justices then present may adjourn the proceedings for any period not exceeding eight clear days, and may in the meantime by warrant (E b.) commit the said witness to gaol, unless he shall sooner consent to be sworn or to testify as aforesaid, or to produce such accounts, papers, or documents, as the case may be; and if such witness, upon being brought up upon such adjourned hearing, shall again refuse to be sworn, or to testify as aforesaid, or to produce such accounts, papers, or documents, as the case may be, the said justices, if they shall see fit, may again adjourn the proceedings, and commit the witness for the like period, and so again from time to time until he shall consent to be sworn or to testify as aforesaid, or to produce such accounts, papers, or documents, as the case may be (provided that no such imprisonment shall in any case of summary jurisdiction exceed one month in the whole); but nothing herein contained shall be deemed to prevent the justice or justices from sending any such case for trial, or otherwise disposing of the same in the meantime, according to any other sufficient evidence which shall have been received by him or them:
6. Whenever in cases of indictable offences the justice or justices shall see fit, they may bind the witnesses by recognizance (A b.*) or (C.) to appear at the trial of the offender and give evidence against him; and whenever any witness shall refuse to be so bound it shall be lawful

for the justice or justices by warrant (E b.) to commit him to the gaol of the county or place in which the person accused is to be tried, there to be imprisoned until the trial of the person accused, unless in the meantime such witness shall duly enter into recognizance (C.) before some justice of the county in which such gaol shall be situated; but if afterwards, from want of sufficient evidence or other cause, the justice or justices before whom the person accused shall have been brought shall not commit him or hold him to bail, it shall be lawful for such justice or justices or any other justice of the county by warrant (E d.) to order the keeper of the gaol to discharge such witness:

7. In all cases of summary jurisdiction it shall be lawful for the justices by whom any order for payment of money, not being in the nature of a penalty for an offence, shall be made, to order the party at whose instance any witness shall have been summoned to pay to such witness such sum, not exceeding two shillings and sixpence, as to such justices shall seem fit, for his expences or loss of time for each day of attending to give evidence, and, in default of payment thereof at such time as such justice shall appoint, then to issue a warrant to levy the amount thereof by distress of the goods of such party:

And no person who shall be summoned to attend before any court of petty sessions, or before any justice out of petty sessions, as a witness, shall be liable to arrest for debt whilst at such court, or at the place where such justice shall sit, or whilst proceeding to or returning from the same, provided he shall proceed and return by the most direct road without unnecessary delay; and it shall be lawful for the court out of which the writ or process shall have issued to order the discharge of any person who shall be so arrested.

14. The manner in which the evidence shall be taken in proceedings for indictable offences shall be subject to the following provisions:

Taking the evidence in case of indictable offences.

1. In every case where any person shall appear or be brought before any justice or justices charged with any indictable crime or offence, such justice or justices, before committing such person for trial or admitting him to bail, shall in the presence of such person, who shall be at liberty to put questions to any witness produced against him, take the depositions (A b.) on oath and in writing of those who shall know the facts of the case; and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall also be signed by the justice or one of the justices who shall take the same; and if upon the trial of the person so accused it shall be proved by the oath of any credible witness that any person whose deposition shall have been so taken is dead, and that such deposition was taken in the presence

or hearing of the person accused, and that he or his counsel or attorney had an opportunity of cross-examining such witness, it shall be lawful to read such deposition as evidence on the trial, without further proof thereof, unless it shall be proved that the same was not signed by the justice purporting to have signed the same :

2. Whenever the examination of the witnesses on the part of the prosecution shall have been completed, the justice or one of the justices present shall (without requiring the attendance of the witnesses) read or cause to be read to the person accused the several depositions, and then take down in writing the statement (A c.) of such person (having first cautioned him that he is not obliged to say anything unless he desires to do so, but that whatever he does say will be taken down in writing, and may be given in evidence against him on his trial); and whatever statement the said person shall then make in answer to the charge, shall, when taken down in writing, be read over to him, and shall be signed by the said justice or one of the justices present, and shall be transmitted to the clerk of the Crown or peace, as the case may be, along with the depositions, and afterwards, upon the trial, may, if necessary, and if so signed, be given in evidence against the person accused, without further proof thereof, unless it shall be proved that it was not signed by the justice purporting to sign the same; but nothing herein contained shall prevent the prosecutor from giving in evidence any admission or confession, or other statement made at any time by the person accused, and which would be admissible by law as evidence against such person :

But if from the absence of any witnesses or from any other reasonable cause it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful for the justice before whom the person accused shall appear or be brought, either to admit such person to bail in manner herein-after provided, or by warrant (E b.) from time to time to remand such person to gaol for such time as the justice shall deem expedient, not exceeding eight clear days; but any such justice may order the said person to be brought before him or some other justice of the county, at any time before the expiration of the period for which he shall have been so remanded : Provided always, that at any time after the examinations in any proceedings for an indictable offence shall have been completed, and on or before the first day of the assizes or sessions or other first sitting of the court at which any person committed to gaol or admitted to bail is to be tried, such person may require, and shall be entitled to receive from the officer or person having the custody of the same, copies of the depositions on which he shall have been committed or bailed, (or copies of depositions taken at any inquest in case of murder or manslaughter,) on payment of a reasonable sum for the same, not

exceeding a sum at the rate of three halfpence for each folio of ninety words.

15. The manner in which the person accused shall be disposed of when the evidence shall have been taken in proceedings for indictable offences, shall be subject to the following provisions:

Disposal of the prisoner in case of indictable offences.

1. Whenever the offence shall have been committed within the jurisdiction of the justice or justices present, and he or they shall be of opinion that the evidence is not sufficient to put such accused person on his trial, he or they shall forthwith order such accused person, if in custody, to be discharged as to the information then under inquiry; but if in the opinion of such justice or justices such evidence is sufficient to put such person on his trial, or if such evidence raises a strong or probable presumption of guilt, then such justice or justices shall either by warrant (E b.) commit him to gaol, to be there kept until his trial for the said offence, or shall admit him to bail in manner hereinafter provided, according as he or they shall see fit:
2. Whenever any person shall appear or be brought before any justice charged with any offence alleged to have been committed by him in any county or place in Ireland wherein such justice shall not have jurisdiction, it shall be lawful for such justice, and he is hereby required, to examine such witnesses, and receive such evidence in proof of such charge, as shall be produced before him within his jurisdiction; and if in his opinion such evidence shall be sufficient proof of the said charge, such justice shall thereupon, either by a like warrant (E b.) commit the person accused to the gaol of the county or place wherein the offence shall be alleged to have been committed, or shall admit him to bail, according as such justice shall see fit; but if in his opinion such evidence shall not be sufficient to put the accused party on his trial, then such justice shall bind over the prosecutor, if he shall have appeared, and the witnesses, to give evidence when required so to do, and shall thereupon, by warrant (E c.) order such person to be taken before some justice of the county in which and near the place where the offence is alleged to have been committed, and shall at the same time deliver to the person having the execution of such warrant the information, depositions, and recognizances, if any, so taken, to be delivered to the justice before whom the accused person shall be taken in obedience to such warrant; and such information, depositions, and recognizances shall be treated to all intents as if they had been taken before such last-mentioned justice:

Provided always, that if such last-mentioned justice shall not think the evidence against such accused party sufficient to put him on his trial, and shall discharge him without holding him to

bail, any recognizance so taken by the said first-mentioned justice shall be null and void.

16. The admission to bail of persons charged with indictable offences shall be subject to the following provisions :

1. In every case where any person shall be charged before any justice in manner aforesaid with any felony, (save as herein-after excepted,) or with any assault with intent to commit any felony, or with any attempt to commit any felony, or with any offence against an Act of the first and second years of his late Majesty King William the Fourth, intituled "An Act to amend an Act passed in the Parliament of Ireland in the fifteenth and sixteenth years of the reign of his Majesty King George the Third, intituled "An Act to prevent and punish tumultuous risings of "persons within this kingdom, and for other purposes "therein mentioned," or with obtaining or attempting to obtain property by false pretences, or with a misdemeanor in receiving property stolen or obtained by false pretences, or with perjury or subornation of perjury, or with concealing the birth of a child by secret burying or otherwise, or with wilful or indecent exposure of the person, or with riot, or with assault in pursuance of a conspiracy to raise wages, or assault upon a peace officer in the execution of his duty or upon any person acting in his aid, or with neglect or breach of duty as peace officer, or with any misdemeanor ~~for the prosecution of which the costs may be allowed out of the county rate or funds,~~ it shall be lawful either for the justice before whom such charge shall be made, at any time before such person shall be committed to gaol, or for the justice by whom the warrant to commit shall have been signed, at any time afterwards, and before the first day of the sitting of the court before which he shall have been committed to be tried, if (having regard to the nature of the charge, and the cogency of the evidence adduced in support of it), it appears to him to be a case in which bail ought to be taken, to admit such accused person to bail by recognizance (C.) with one or more sufficient sureties, at the discretion of the justice, conditioned that he will appear at the time and place when and where he is to be tried for such offence, and that he will then surrender and take his trial, and not depart the court without leave ; and whenever in any such case the accused person shall not be so admitted to bail, if the committing justice shall be of opinion that he ought to be admitted to bail, he shall certify (I c.) on the warrant of commitment his consent to his being bailed, stating also the amount of bail which ought to be required ; and any justice of the county attending or being at the gaol where such accused party shall be in custody, on production of such certificate at any time before the first day of the sitting of the court before which he shall have been committed to be tried

Bailing
prisoner in
case of
indictable
offences.

Bail at
discretion.

1 & 2 Will. 4
c. 44.

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may admit such accused person to bail in manner aforesaid :

2. In every case where any person shall be charged before any justice with any indictable misdemeanor other than those herein-before mentioned, such justice, after taking the examinations, instead of committing him to prison, shall, upon the application of such person (and upon being satisfied as to the sufficiency of the bail offered), admit him to bail in manner aforesaid ; or if he shall have been committed to gaol and shall apply to any justice for the same county to admit him to bail at any time before the first day of the sitting of the court before which he shall have been committed to be tried, such justice shall admit him to bail in manner aforesaid :

Bail as of right.

And whenever it shall not be convenient for the surety or sureties in any case to attend at the gaol to join with the accused person in the recognizance of bail, then the committing justice or the justice by whom such person can be admitted to bail, as the case may be, shall make a duplicate of such certificate (I c.) as aforesaid ; and upon the same being produced to any justice for the same county it shall be lawful for such last-mentioned justice, before such time as aforesaid, to take the recognizance of the surety or sureties in conformity with such certificate ; and upon such recognizance being transmitted to the keeper of such gaol, and produced to any justice attending or being at such gaol, it shall be lawful for such last-mentioned justice, before such time as aforesaid, to take the recognizance of such accused person in like manner as if the sureties were present ; and in all cases where a justice shall admit to bail any person who shall then be in any gaol charged with the offence for which he shall be so admitted to bail, such justice shall send to or cause to be lodged with the keeper of such gaol a warrant (E d.) requiring the said keeper to discharge the person so admitted to bail, if he be detained for no other offence or under no civil process ; and upon such warrant being delivered to such keeper he shall forthwith obey the same : Provided always, that no justice shall admit any person to bail for treason or for any felony under the Treason Felony Act, 1848 ; nor shall any such last-mentioned person be admitted to bail except by order of the Lord Lieutenant, or his chief secretary, or by her Majesty's Court of Queen's Bench at Dublin.

11 & 12 Vict. c. 12.

17. Whenever any person charged with any such indictable crime or offence as aforesaid shall have been bailed in manner aforesaid, it shall be lawful for the justice by whom he shall have been bailed, or for any other justice, if he shall see fit, upon the application of the surety or of either of the sureties of such person, and upon information being made in writing and on oath by such surety, or by some person on his behalf, that the person so bailed is about to abscond for the purpose of evading

Where party is about to abscond, justice may, upon application of surety, order arrest, and require new bail.

justice, to issue his warrant for the arrest of such person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such person, when so arrested, to gaol, until his trial, or until he shall produce another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

Arrest of
party at large
against whom
an indictment
is found.

18. Whenever an indictment shall have been found by the grand jury in any court of oyer and terminer or general gaol delivery, or at any general or quarter sessions of the peace in Ireland, against any person who shall then be at large, and who shall not already have appeared and pleaded to such indictment, (and whether such person shall have been bound by recognizance to answer to the same or not,) the person who shall act as clerk of the Crown at such court, or as clerk of the peace at such sessions, shall, at any time after the end of the assizes or sessions at which such indictment shall have been found, upon application of the prosecutor or of some person on his behalf, and free from charge, grant unto such prosecutor or person a certificate (I b.) of such indictment having been found; and upon production of such certificate to any justice for the county in which the offence shall be alleged in such indictment to have been committed, or in which the person thereby indicted shall reside or be, or be suspected to reside or be, such justice shall issue his warrant to arrest such person, and to cause him to be brought before him, or some other justice for the same county, to be dealt with according to law; and upon such person being so brought before such justice, and upon its being proved on oath that the person so arrested is the same person who is charged and named in such indictment, such justice shall, without further inquiry, either commit him for trial or admit him to bail in manner aforesaid; and in any such case as last aforesaid, if the person so indicted shall at the time be confined in any gaol for any other offence than that charged in such indictment, such justice shall, upon like proof on oath that the person so confined is the same person who is so charged in such indictment, issue his warrant (E b.) to the keeper of such gaol, commanding him to detain such person in his custody until he shall be discharged therefrom by due course of law; but nothing herein contained shall be deemed to prevent any clerk of the Crown or peace or other officer from issuing any warrant in any such case for the arrest of any such person which he might otherwise by law issue.

Disposal of
the informa-
tions, &c. in
case of
indictable
offences.

19. The manner in which informations, examinations, statements of accused parties, and recognizances, in proceedings for indictable offences, shall be disposed of, when taken, shall be subject to the following provisions:

1. Every such information, examination, statement, and recognizance sworn, taken, or acknowledged by or before any justice not sitting in petty sessions, shall, with all convenient despatch, and at the latest before the petty

sessions then next ensuing for the district where the case may have arisen, be transmitted by him to the justices at such petty sessions, except in cases where the person accused shall not have been committed or shall not be amenable, and such justice shall deem it expedient to retain such documents for a longer period :

2. The justices at petty sessions shall transmit or cause the clerk of petty sessions to transmit every such information, examination, statement, or recognizance so received from any justice out of petty sessions, or which shall be sworn, taken, or acknowledged at petty sessions, to the clerk of the Crown of the county, where the same shall relate to any matter to be tried at the assizes, or to the clerk of the peace, where same shall relate to any matter to be tried at quarter sessions, with all convenient despatch, or at latest within seven days from the holding of each petty sessions where the party shall have been committed or shall be amenable, (or at least seven days before the assizes or quarter sessions, as the case may be, where the party shall not have been committed or shall not be amenable,) except in cases of indictable offences where the party shall not have been committed or shall not be amenable, and the justices shall deem it expedient to retain such documents for a longer period :
3. In every case where any such documents, whether taken in or out of petty sessions, shall be so retained by any justice for a longer period than is herein-before provided, he shall endorse on the same his reason for such retention :

And in all cases where the justices shall deliver to the clerk of petty sessions any such information, examination, statement, or recognizance, to transmit to the clerks of the Crown or peace, the said clerk of petty sessions shall forthwith make an abstract or schedule of the same, specifying the dates of the same, and the dates when the same were received by him ; and (when there shall be no more convenient or safe mode of transmission, and he shall be so directed by the justices) he shall transmit such schedule, together with the informations, examinations, and recognizances therein referred to, to the said clerks of the Crown or peace, as the case may be, through the General Post Office, prepaying the same, and obtaining a receipt from the postmaster where the same shall be posted, specifying the date of such posting, and for which the postmaster by whom the same shall be delivered shall in like manner obtain a like receipt from the clerk of the peace, or clerk of the Crown, as the case may be, and which receipts such postmaster and such clerk of the Crown or peace are hereby required to give ; and the grand jury of the county shall at the assizes present to be paid to such clerks of petty sessions the amount of the postage prepaid by them for the transmission of such documents as aforesaid ; and the sums

so presented shall be levied as other monies presented by such grand jury.

Hearing in
cases of
summary
jurisdiction.

20. In all cases of summary jurisdiction the proceedings upon the hearing of the complaint shall be subject to the following provisions :

1. Whenever the defendant or his agent shall be present, the substance of the complaint shall be stated to him ; and if he thereupon admit the truth of the complaint, then the justices shall, if they shall see no sufficient reason to the contrary, convict or make an order against him accordingly ; but if he do not admit the truth of the complaint, then the justices shall proceed to hear such evidence as may be adduced in support of the complaint, and also to hear the defence, and such evidence as may be adduced on behalf of the defence, and also such evidence as the complainant may adduce in reply, if such defendant shall have given any evidence other than as to his the defendant's general character ; but the complainant or his agent shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant or his agent be entitled to make any observations in reply upon the evidence given by the complainant in reply ; and if the information or complaint shall negative any exemption, exception, proviso, or condition in the statute on which the same shall be framed, it shall not be necessary for the complainant to prove such negative, but the defendant may prove the affirmative thereof, if he will have advantage of the same.
2. Whenever the defendant or his agent shall not appear at the time and place mentioned in the summons, and it shall appear to the justices on oath that the summons was duly served, a reasonable time before the time therein appointed for appearing, and no sufficient grounds shall be shown for an adjournment, the justices may either proceed ex parte to hear and determine the complaint, or may adjourn the hearing to a future day :
3. Whenever the defendant or his agent shall appear at the time and place appointed in the summons, or shall be brought before the justice by virtue of any warrant, then if the complainant (having in the case of a warrant had due notice of the defendant's arrest) do not appear by himself or his agent, the justices may either dismiss such complaint, or may adjourn the hearing to a future day :
4. Whenever any justices shall proceed to hear and determine any complaint or information as to an offence, they, or one of them, shall, when required so to do by either party, or his agent, take or cause to be taken a note in writing of the evidence, or of so much thereof as shall be material, in a book to be kept for that purpose by the clerk of

petty sessions; and which book shall be signed by one of the justices by whom such information or complaint shall have been heard, on the day on which the same shall have been determined:

And whenever all the cases shall not have been heard and determined on any court day, the justices then present may adjourn the remaining cases either to the next court day, or to such other day as they shall see fit; and whenever, either before or during the hearing of any complaint, it shall appear advisable, the justices present may, in their discretion, adjourn the hearing of the same to a certain time or place to be then appointed and stated in the presence and hearing of the party or parties or their agents; and all persons whose attendance shall have been required by any summons in any of the cases so adjourned shall take notice of such adjournment, and shall be obliged to attend on the day to which such adjournment, shall take place, without the issue or service of any further summons; and in all cases of such adjournments the said justices may suffer the defendant to go at large, or, in prosecutions for offences (where there shall be an information in writing and on oath that the defendant is guilty of the offence) may commit him to gaol by warrant (E b.), or may discharge him upon his entering into a recognizance (C), with or without sureties, at the discretion of the justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned.

21. In all cases of summary jurisdiction the justices, having heard what each party shall have had to say, and the evidence adduced by each, shall either make such order as shall be authorized by the Act under which the complaint shall be made, or shall dismiss the complaint either upon the merits or without prejudice to its being again made; and the entry of the order so made shall be as follows: Adjudication of case.

1. One of the justices then present shall thereupon enter or cause the clerk to enter the particulars of such case and the substance of the decision thereon in a book to be kept for that purpose, to be called the "Order Book," (and shall, in case of a dismissal, state whether the same is upon the merits or without prejudice to a further complaint); and such entry, when one of the justices present shall have signed his name opposite to it or after it (which one of the said justices is hereby required to do), shall be deemed to all intents and purposes a conviction or order, as the case may be:
2. Whenever any justice or justices shall have made any such conviction or order out of petty sessions, in the cases permitted by this Act to be decided out of petty sessions, he or they shall either enter the same in the order book in manner aforesaid, or shall enter the substance of the decision in the form of certificate (I a.), and shall forthwith or at furthest before the next court day, deliver or forward such certificate to the clerk of petty sessions of

the district, who shall enter the same in the proper order book (with a special note that he has so done), and shall submit such entry for signature to the justice or one of the justices by whom the order shall have been made upon the next day of his attendance at petty sessions; but in case such justice shall not sign the same, the clerk shall make a special entry to that effect in the order book opposite to such case, and shall preserve the original certificate as a record of the proceeding:

3. The sub-inspector of constabulary of the district shall make a return to the justices at each petty sessions of the particulars of any cases of summary jurisdiction in which any justices of the said petty sessions shall have made any order or issued any warrant out of petty sessions, and in which any head or other constable of such district shall have been engaged, since the next preceding petty sessions:

And it shall not hereafter be necessary to return to quarter sessions copies of the summary convictions so made and entered at petty sessions; but if either party shall require it, a certificate (form I a.) of any order so made (signed by the justice who shall have made the same, or by any other justice of the same petty sessions), shall be delivered to him at any time; and such certificate shall operate to all intents as a good form of conviction or order, as the case may be, for any purpose for which any form of conviction or order may now by law be required; and in case of a dismissal, where the same shall be stated therein by the justice to have been a dismissal on the merits, or that any assault was of a trifling or justifiable nature, (and which he is hereby required to state if the case be so,) such certificate upon being produced shall be a bar to any subsequent information or complaint for the same matter against the same party; and in any such case such certificate shall, on proof of the signature of the justice to the same, be received as good evidence of the conviction or order in all courts of justice.

General
powers of
justices in
adjudicating
cases.

22. In all cases of summary jurisdiction it shall be lawful for the justices in adjudicating thereof to exercise the following general powers, whether the same shall be authorized by the Act under which the complaint shall be made or not:

1. In every case where the justices shall be authorized to award any penal or other sum, they may order that [¹] the same shall be paid either forthwith or at such time as they shall see fit to fix for that purpose, and, in cases of a civil nature, that such sum may be paid either at once or by instalments:
2. In every case where the justices shall award any penal or other sum to be paid, they may order that, in default of

[¹ S. 14 of 30 & 31 Vict. c. 90 provides that this provision shall not extend to penalties for offences against 1 & 2 Will. 4 c. 55.]

the said sum being paid at the time and in the manner directed by their order, the goods of the person against whom the said order shall be made shall be distrained for such sum, or for so much of such sum as shall remain unpaid at the time fixed, and also for the costs of such distress:

3. In every case of an offence where they shall order that a distress shall be made in default of payment of any penal sum, they may order that in default of the said sum being paid as directed the said person shall be imprisoned for any term not exceeding the period specified in the following scale:

For any sum	The imprisonment not to exceed
Exceeding the [1] last, but not exceeding 10 <i>l</i> .	three months;
Exceeding the last, but not exceeding 30 <i>l</i> .	four months;
Exceeding the last, but not exceeding 50 <i>l</i> .	six months;
Exceeding the last	one year;

And any such imprisonment shall be determinable upon payment of the said sum and costs and any costs of the distress, where a distress shall have been made; and such imprisonment may be directed in the same warrant as such distress; but if the said person shall admit, or if it shall be otherwise proved on oath, that he has no goods, or that a distress would be ruinous to him or his family, they may order that such person shall be imprisoned in the first instance for the like period for which he might be imprisoned in default of distress;

4. In every case of an offence, where the order shall only have directed distress in default of payment of a penal sum, and it shall afterwards be found impossible to execute a warrant of distress, it shall be lawful for the justices at petty sessions to order a warrant to issue to commit the person against whom such order shall have been made to gaol for such period as might have been directed by the original order; and in like manner, where the order shall have only directed imprisonment, and it shall be found impossible to execute a warrant of committal, it shall be lawful for the justices at petty sessions to order a warrant to issue to levy by distress of the goods of such person such penal sum as might have been awarded by the original order; and in all such cases a note of such proceeding shall be made by the justices in the order book:

5. In every case of an offence, where the Act shall authorize the justices to order imprisonment, they may adjudge by

¹ That is 5*l*.

~~their order that the said imprisonment shall be either with or without hard labour, according as they shall see fit:~~

6. In every case of an offence, where the person against whom an order to imprison shall be made shall then be in prison undergoing imprisonment upon a conviction for any other offence, it shall be lawful for the justice issuing the same, if he shall think fit, to order therein that the imprisonment shall commence at the expiration of the imprisonment to which such person shall have been previously sentenced:

7. In every case where any sum shall be awarded under the provisions of any Act as compensation for damage, or as the value of any article, or as the amount of any injury done, such sum shall be paid to the party or public body aggrieved; but where the party aggrieved is unknown, such sum shall be applied in like manner as any penalties awarded to the Crown; and where several persons join in an offence, and are severally punished each in the amount of the injury done, no more than one of such sums shall be paid to the party aggrieved, and the rest shall be applied as other penalties awarded to the Crown:

0266.V. (N.I) 13. 9.52. 8. In every case where the Act under which any penal sum shall be ordered to be paid as a penalty for an offence, (and no sum shall be awarded to the complainant as compensation for damage,) it shall be lawful for the justices to award any sum not exceeding one third of such penal sum to the prosecutor or informer, and the remainder of such sum and all other penal sums shall be awarded to the Crown, any Act or Acts to the contrary notwithstanding:

9. In all cases the justices may order that the defendant shall pay to the complainant, or, in case of a dismissal, that the complainant shall pay to the defendant, such sum, not exceeding twenty shillings, for costs, as to such justices shall seem fit; and the same shall be recoverable in the same manner as any penal or other sum adjudged to be paid by the justices:

Provided always, that every person who shall aid, abet, counsel, or procure the commission of any offence which is or shall be punishable on summary conviction, shall be liable to be proceeded against and convicted for the same, either together with the principal offender or before or after his conviction, and shall be liable, on conviction, to the same forfeiture and punishment to which such principal offender shall be by law liable, (except where the age of such aider or abettor shall exceed fourteen years, in which case he shall be liable to the same forfeiture and punishment to which any principal offender whose age shall exceed fourteen years shall be liable,) and may be proceeded

against and convicted either in the county where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling, or procuring may have been committed.

23. In all cases of summary jurisdiction, whenever an order shall be made upon the conviction of any person for an offence, the justices shall issue the proper warrant for its execution forthwith when the imprisonment is to take place immediately, or at the time fixed by the order for the imprisonment to take place where it is not to be immediate, or directly upon the non-payment of any penal sum or the nonperformance of any condition at the time and in the manner fixed by the order for that purpose, or at furthest upon the next court day after the expiration of the time so fixed for the imprisonment, payment, or performance of a condition, as the case may be, unless the imprisonment or penal sum shall have been remitted by the Crown or other competent authority in the interval; and whenever an order shall be made in any case of a civil nature, and the same shall not be obeyed, the justice shall issue the proper warrant for its execution at any time after the time fixed for compliance with its directions, where required so to do by the person in whose favour such order shall have been made or by some person on his behalf; and it shall not be necessary that the justice by whom any such warrant shall be issued shall be the justice or one of the justices by whom the order shall have been made: Provided always, that in every case where the party being entitled to appeal against any such order shall have duly given notice thereof, and entered into a recognizance to prosecute the same in the manner hereinafter provided, it shall not be lawful for any justice to issue any warrant to execute the said order until such appeal shall have been decided, or until the appellant shall have failed to perform the condition of such recognizance, as the case may be (except where any Act shall expressly authorize or direct the levy of any sum to be made notwithstanding the appeal); and in any case where any person shall be in custody, or shall have been committed to gaol, or any warrant of distress shall have been issued or executed, under any such order, the justice by whom the warrant shall have been issued, or any other justice of the same county, shall, upon an application being made to him in that behalf, forthwith order the discharge of such person from custody or from gaol, or that such warrant of distress shall not be executed, or that if executed the distress shall be returned to the owner, as the case may be.

Enforcement
of orders.

24. In any case of summary jurisdiction, where an order shall be made by the justices for payment of any penal or other sum exceeding twenty shillings, or for any term of imprisonment exceeding one month, or for the doing of anything at a greater expence than forty shillings, or for the obtaining of any recognizance to a greater amount than twenty shillings, (but in no other case,) either party (whether he shall be the complainant or

In what cases
appeals shall
be permitted.

Appeal to be made to next quarter sessions of the division, &c.

the defendant) in cases of a civil nature, or the party against whom the order shall have been made in other cases, shall be entitled to appeal to the next quarter sessions to be held in the same division of the county when the order shall have been made by any justice or justices of any petty sessions district, (or to the recorder of any corporate or borough town at his next sessions when the order shall have been made by any justice or justices of such corporate or borough town,) (unless when any such sessions shall commence within seven days from the date of the order, in which case the appeal may be made to the next succeeding sessions of such division or town); and such appeal shall be subject to the following provisions :

Notice.

1. The appellant shall serve notice in writing of his intention to appeal upon the clerk of petty sessions within three days from the date of the order against which the appeal shall be made :

Recognizance.

2. He shall also within three days after such notice as aforesaid enter into a recognizance, according to the form (C.), with two solvent sureties, conditioned to prosecute such appeal; and the amount of such recognizance shall be double the amount of the sum and costs ordered to be paid, where payment only is ordered, or of such reasonable amount as the justices shall see fit, where imprisonment is ordered :

Form of appeal.

3. Whenever the appellant shall have given such notice and entered into such recognizance, there shall be delivered to him the form of appeal (H.), containing a certificate of the order against which he shall appeal (signed by the justice who shall have made the same, or by any other justice of the same petty sessions); and it shall also be therein certified by the clerk of petty sessions that the said notice was duly given and that the said recognizance was duly entered into, if the fact shall be so :

Recognizance to be transmitted to clerk of peace.

4. In every case where an appeal shall be so made, the clerk of petty sessions shall transmit the recognizance entered into to prosecute such appeal and all other proceedings in such case to the clerk of the peace of the county or to the proper officer of the recorder's court, at least seven days before the commencement of the sessions to which the appeal shall be made, or as soon afterwards as may be practicable, in the same manner as is herein-before provided for the transmission of informations as to indictable offences :

Appellant to give notice to opposite party.

5. The appellant shall give notice in writing to the opposite party of his intention to prosecute his appeal at least seven clear days before the commencement of the sessions to which the appeal shall be made :

Decision of appeal by

6. Whenever an appeal shall have been so made, and such last-mentioned notice shall have been duly given, it shall be

lawful for the said court of quarter sessions (or recorder, as the case may be,) to entertain the same, and to confirm, vary, or reverse the order made by the justices (as so certified in such form of appeal,) and to award to either party any sum not exceeding forty shillings for the costs of such appeal; and whenever the said court of appeal shall have decided any such appeal, the clerk of the peace or proper officer of the recorder's court, as the case may be, shall certify such decision at foot of the form of appeal, and return the same and the said proceedings to the justices of the petty sessions at which the order shall have been made, within seven days after such appeal shall have been decided; and whenever any such appeal shall not have been duly prosecuted, the clerk of the peace or proper officer of the recorder's court, as the case may be, shall so certify upon such recognizance, and return the same to the justices of the petty sessions from which the same shall have been transmitted, (in the same manner and subject to the same provisions as are hereinbefore contained as to the transmission of informations for indictable offences,) within seven days after the termination of the sessions at which such appeal ought to have been prosecuted; and which certificate shall be free from any charge :

quarter ses-
sions or
recorder.

7. And whenever it shall appear from such certificate that such appeal has not been duly prosecuted, or that the original order has been confirmed upon appeal, the justices who shall have made the original order, or any other justice of the same petty sessions, shall issue the proper warrant for the execution of the same, as if no such appeal had been brought; and in every case in which it shall appear from such certificate that the court of appeal shall have varied the original order, the said justices shall forthwith issue the proper warrant for the execution of the order so made by the court of appeal, in like manner as they might have issued a warrant for the execution of the original order in case no appeal had been prosecuted; and if upon any such appeal either party shall be ordered to pay costs, it shall be lawful for such justices to enforce payment of the same, in like manner as any costs awarded by the original order; and in any case where any order by which any person shall be adjudged to be imprisoned shall be confirmed on appeal, such person shall be liable to be imprisoned for the period adjudged by the original order, where he shall not have been apprehended under the original order, or, where he shall have so been apprehended and discharged, then for such period as, together with the time during which he shall so have been in custody, shall be equal to the period adjudged by the original order : . . .

Execution.

Addressing
warrants.

25. The persons to whom warrants shall be addressed for execution shall be as follows :

1. All warrants in proceedings as to offences punishable either by indictment or upon summary conviction, which shall be issued in any petty sessions district, shall be addressed to the sub-inspector or head constable of constabulary who shall act for the place where the petty sessions for such district shall be held :
2. All warrants in other cases shall be addressed either to the sub-inspector or head constable of constabulary in manner aforesaid, or to such other person or persons (not being the complainant or a party interested) as the justices issuing the same shall see fit :

And it shall not be necessary to address any warrant of committal to the keeper of the gaol ; but upon the delivery of any such warrant by the person charged with its execution to the keeper of the gaol to which the committal shall be made, such keeper shall receive and detain the person named therein, (or shall detain him if already in his custody,) for such period and in such manner as it shall appear from the warrant that the said person is to be imprisoned ; and in cases of adjournments or remands such keeper shall bring the said person at the time and place fixed by the warrant for that purpose before such justices as shall be there.

By whom
warrants may
be executed.

26. The execution of warrants so addressed to the sub-inspector or head constable of constabulary shall be subject to the following provisions :

1. Whenever the person against whom any warrant so addressed shall have been issued shall be to be found in case of committal, or shall have goods in case of distress, in any place for which such sub-inspector or head constable shall act, it shall be lawful for the sub-inspector or head constable who shall act for the time being for such place, or for any head or other constable to be appointed by him, to execute the same :
2. Whenever it shall appear that the said person or his goods, as the case may be, are not to be found in any place for which such sub-inspector shall act, but that they are to be found elsewhere in the same county, the said sub-inspector or head constable shall certify on the warrant, according to the form (G b.), the place where he believes that the said person or his goods are to be found, and also (having first satisfied himself as to the fact) that he believes the signature to the warrant to be genuine, and shall forthwith transmit the said warrant to the sub-inspector or head constable who shall act for such last-mentioned place ; and the same shall be executed in like manner as any warrant addressed to him in the first instance :
3. Whenever it shall appear that the said person or his goods, as the case may be, are not to be found in the county to

which such sub-inspector or head constable shall belong, but that such person, or his goods, as the case may be, are to be found elsewhere out of the said county, the said sub-inspector or head constable shall, as before, certify on the warrant, according to the form (G b.), and forthwith transmit the same to the inspector general of the constabulary force, to be backed as herein-after mentioned :

Provided always, that in any case which shall appear to the justice by whom any warrant shall be issued to be a case of emergency, he may address such warrant to any constable of the county ; and it shall be lawful for such constable to execute such warrant at any place within the county in which the justice issuing such warrant shall have jurisdiction, or, in case of fresh pursuit of an offender, at any place in the next adjoining county ; but the constable to whom any such warrant shall be so addressed shall, if the time will permit, show or deliver the same to the sub-inspector or head constable under whose command the said constable shall be, who shall proceed in respect to the same according to the Acts regulating the constabulary force.

27. Whenever any warrant addressed to the sub-inspector of constabulary, or to any head or other constable, shall be so certified and transmitted to the said inspector general, the manner in which it shall be backed for execution elsewhere shall be as follows :

Backing
warrants.

1. Whenever it shall appear that the said person or his goods are to be found in any place in Ireland, (not being within the police district of Dublin Metropolis,) it shall be lawful for the said inspector general or for either of the deputy inspectors general of constabulary to indorse the said warrant according to the form (G c.), and to transmit the same to the sub-inspector who shall act for such place ; and the same shall be executed in like manner as any warrant addressed to him in the first instance :
2. Whenever it shall appear that the said person or his goods are to be found in the police district of Dublin Metropolis, it shall be lawful for the said inspector general, or for either of the said deputy inspectors general, to indorse the said warrant according to the form (G. c.), and to transmit the same to the Commissioners of Metropolitan Police ; and the same shall be executed in like manner as any warrant addressed to them in the first instance :
3. Whenever it shall appear that the said person or his goods are to be found in some place in England or Scotland, or in the Isles of Man, Guernsey, Jersey, Alderney, or Sark, it shall be lawful for the said inspector general, or for either of the said deputy inspectors general, in like manner as before, to indorse the warrant, according to form (G c.), and it shall thereupon be lawful for any justice or officer having power to issue any warrant, or

process in the nature of a warrant, for the arrest of offenders in any of the said places, upon proof on oath of the handwriting either of the inspector or deputy inspector general by whom the same shall have been indorsed or of the justice by whom the warrant shall have been issued, to indorse the same, according to the form (G c.), authorizing its execution within the jurisdiction of the said justice or officer by the person bringing the same, or by any constable or other peace officer of the county or place where it shall be so indorsed :

And the said provisions shall also apply to cases in which the sub-inspector shall only certify that the signature to the warrant is genuine, but in which the place where the said person or his goods are to be found shall appear by other means than the said certificate.

Backing of warrants addressed to other persons than the constabulary.

28. Whenever a warrant shall be addressed to any other person or persons than the constabulary, and it shall appear that the person against whom the same shall have been issued, or his goods, as the case may be, are not to be found within the county in which the justice issuing the same shall have jurisdiction, but in some other place in Ireland, or in any of the places out of Ireland herein-before mentioned, it shall be lawful for any justice or other such officer as aforesaid of such place, upon proof on oath of the handwriting of the justice who shall have signed the warrant, to indorse the same for execution in such place in like manner as is herein-before provided as to any warrant indorsed by the inspector general of constabulary.

Backing warrants from England, &c. into Ireland.

29. Whenever any person against whom any warrant shall be issued by any justice or other such officer as aforesaid in England or Scotland, or in the Isles of Man, Guernsey, Jersey, Alderney, or Sark, for any crime or offence, shall reside or be, or be suspected to reside or be, in any place in Ireland, it shall be lawful for the said inspector general or for either of the said deputy inspectors general, or for any justice of the said last-mentioned place, to indorse the same in like manner and upon like proof as aforesaid, authorizing the execution of the same within his jurisdiction.

Warrants for arrest issued by justices, judges, &c.

30. The aforesaid provisions as to the indorsement of warrants shall equally apply to any warrants for the arrest of any person charged with any indictable crime or offence for which he is punishable by law, whether the same shall be signed or indorsed or issued by a justice of the peace, or by a judge of her Majesty's Court of Queen's Bench, or justices of oyer and terminer and general gaol delivery, in England or Ireland, or by the Lord Justice General, Lord Justice Clerk, or any of the Lords Commissioners of Justiciary, or by any sheriff depute or substitute, in Scotland, or by the chief or ~~under~~ secretary to the Lord Lieutenant.

31. Whenever any warrant, addressed either to the constabulary or any other person, shall be so indorsed by the said inspector general or by either of the said deputies inspector general or by any justice or other such officer as aforesaid, it shall be a sufficient authority to the person bringing such warrant, and also to all constables or peace officers of the county or place where such warrant shall be so indorsed, to execute the same by arrest, committal, or levy, as the case may be, within the jurisdiction of the said justice or officer, and, in case of a warrant to arrest any person, to convey him when arrested before the justice or officer by whom the same was issued, or before some other justice or officer of the same county or place, to be dealt with according to law: Provided always, that if the prosecutor, or any of the witnesses for the prosecution, in cases of indictable offences, shall then be in the county or place where any person shall have been arrested under any warrant so backed as aforesaid, the constable or other person who shall have arrested such person shall, if so directed by the justice who shall have indorsed the warrant, bring the person so arrested before him or some other justice of the same county or place, who may thereupon take the examinations of such prosecutor or witnesses, and proceed in every respect as herein-before directed with respect to persons charged before a justice with an indictable crime or offence alleged to have been committed in any other county or place than that in which such person shall have been arrested.

Warrants so backed to be valid for execution.

32. The manner in which distresses and committals under warrants shall be made shall be as follows:

Execution of warrants in cases of summary convictions.

14 & 15 Vict. c. 90.

1. Whenever any warrant to levy any penal or other sum by distress shall be addressed to the constabulary, the sums levied under it shall be accounted for under the provisions of the Fines Act, Ireland, 1851, but whenever any such warrant shall be addressed to any other person than the constabulary, such person shall pay over the sum levied under it to the person who shall appear by such warrant to be entitled to the same, or in such other manner, and subject to such account of the same, as the justices shall direct:
2. In every case where a distress shall be made under any such warrant it shall be lawful for the person charged with its execution to sell the said distress within such period as shall be specially fixed by the said warrant, or if no period shall be so fixed, then within the period of three days from the making of the distress, unless the sum for which the warrant was issued, and also the reasonable charges of taking and keeping the said distress, shall be sooner paid; and in every case where he shall sell any such distress, he shall render to the owner the overplus, if any, after retaining the amount of the said sums and charges:

3. In every case where any person against whom any such warrant shall be issued shall pay or tender to the person having the execution of the same the sum in such warrant mentioned, or shall produce the receipt of the officer of the court for the same, and shall also pay the amount of the expences of such distress up to the time of such payment or tender, such person shall refrain from executing the same :
4. In every case where any sub-inspector or member of the metropolitan police force shall be empowered to distrain any goods under such warrant, he may and is hereby authorized to sell or cause the same to be sold by auction by any head constable of the said constabulary force, or by any member of the said metropolitan police force, as the case may be, without procuring any licence to act as an auctioneer, and may deduct out of the amount of such sale all reasonable costs and charges actually incurred in effecting the same :
5. In every case where any person who shall be apprehended under any such warrant shall pay or cause to be paid to the keeper of the gaol in which he shall be imprisoned the sum in the warrant mentioned, the said keeper shall receive the same, and shall thereupon discharge such person if he be in his custody for no other matter :
6. Whenever the warrant shall be to commit any prisoner to gaol, the head or other constable or other person whose duty it shall be to convey such prisoner to gaol shall deliver over the said warrant and the said prisoner to the keeper of the gaol, who shall thereupon give to such head or other constable or other person a receipt for such prisoner (form F.), setting forth the state and condition in which he shall have been delivered into the custody of such keeper :
7. In any case of summary jurisdiction in which a justice shall order any person to be committed to gaol for any period either in default of payment of any sum, or in default of distress, or as a punishment for any offence, such committal shall be to the county gaol, district bridewell, or house of correction of the county in which the party shall be arrested, unless where such arrest shall be made in any county adjoining to that in which the warrant shall have been issued, in which case the committal shall be to any of the said prisons of such last-mentioned county ; and whenever any justices shall order any person to be committed on account of any adjournment of the hearing, or until the return of a warrant of distress, or for any like temporary purpose, such committal shall be either to the gaol or house of correction,

district bridewell, or to any bridewell or lock-up of the county built or supported by county presentment, according as shall appear to the justices most convenient for that purpose.

33. Whenever the person to whom any warrant shall be so addressed, transmitted, or endorsed for execution, shall be unable to find the person against whom such warrant shall have been issued, or his goods, as the case may be, or to discover where such person or his goods are to be found, he shall return such warrant to the justices by whom the same shall have been issued within such time as shall have been fixed by such warrant, (or within a reasonable time where no time shall have been so fixed,) and together with it a certificate (G. a.) of the reasons why the same shall not have been executed; and it shall be lawful for such justice to examine such person on oath touching the non-execution of such warrant, and to re-issue the said warrant again, or to issue any other warrant for the same purpose, from time to time as shall seem expedient.

Return of
unexecuted
warrants.

34. Whenever any person shall be bound to appear or to keep the peace, it shall be done by a separate recognizance (C.); but whenever any person shall be bound to prosecute or to give evidence as a witness, it may be done either by recognizance at foot of his deposition (A b.), or by a separate recognizance, at the discretion of the justice; and the taking of every recognizance shall be subject to the following provisions:

Form of
recognizances,
and mode of
estreating.

1. It shall be in such amount as the justice shall, in his discretion, think expedient, except in cases of appeal, in which the amount shall be as herein-before provided:
2. It shall particularly specify the profession, trade, or occupation of every person entering into the same, together with his christian and surname, and the name of the parish and townland or town in which he resides, and, if he resides in a town, the name of the street, and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof, or a lodger therein:
3. Every recognizance so taken according to the form in the schedule to this Act, or to the like effect, either at foot of the deposition or by a separate form, shall have the like force and effect in binding the lands, tenements, goods, and chattels of the persons acknowledging the same, and in all other respects, which any recognizance now by law has:

And whenever the condition of any such recognizance shall be to appear at assizes or quarter sessions, or at any place other than before any justice or justices, or to perform the duties of petty sessions clerk, it shall be forwarded to the clerk of the Crown or peace as herein-before provided, and shall be liable, upon any breach of the condition thereof, to be estreated in the

same manner as any forfeited recognizance to appear is now by law liable to be estreated by the court before which the principal party thereto shall have been bound to appear: But whenever the condition of such recognizance shall be to keep the peace, or to appear before any justice out of quarter sessions, or to perform the duties of a pound keeper, it shall be deposited with the clerk of petty sessions of the district by the justice by whom it shall have been taken; and upon nonperformance of the condition thereof any justice who may then be there present may certify on the recognizance the nonperformance of the said condition; and it shall thereupon be lawful for the justices sitting at the petty sessions of the district, and in open court, upon proof of the nonperformance of the said condition, to make an order to estreat such recognizance to such amount as they shall see fit, and thereupon to issue a warrant (E a.) to levy such amount by distress and sale of the goods of the parties who shall have acknowledged the same: Provided always, that in every case where any justices shall order any such recognizance to be estreated, proof shall be first made on oath that notice in writing (stating the general grounds on which it is intended to sustain the application) was left at the usual place of abode of the party, or of each of the parties if more than one, against whom it is sought to put such recognizance in force, at least seven days before the day on which the application to estreat such recognizance shall be made.

Offences by
officers and
others.

35. Any of the officers or persons herein-after mentioned who shall commit any of the offences or neglects herein-after mentioned, and who shall be convicted thereof before any two justices of the county sitting at petty sessions, shall be liable to forfeit for every such offence or neglect the penalties herein-after mentioned; (that is to say.)

Refusal to
enter sum-
mons.

Any clerk of petty sessions who shall neglect or refuse to enter any summons in the order required under the provisions of this Act shall be liable to a penalty not exceeding forty shillings:

Clerk taking
more than his
legal fees.

Any clerk of petty sessions who shall demand or receive any other or different fees, or any greater amount of fees, as to any proceedings in any case, than he can legally demand or receive under this Act, shall be liable to a penalty not exceeding five pounds:

Clerk engaging
in occupation
inconsistent
with his duties.

Any person who, whilst he shall hold the office of petty sessions clerk, shall practise as solicitor in any case at such petty sessions, or at the quarter sessions of the division of the county in which such petty sessions shall be situated, or who shall act as the clerk of any solicitor so practising, or as the clerk of a poor law union, or as a collector of any public tax, or as a pound keeper, or as the keeper or partner in keeping any inn or public house, or who shall engage in any other business or occupation

which the justices or the Lord Lieutenant shall have forbidden as inconsistent with his duties as petty sessions clerk, shall be liable to a penalty not exceeding twenty pounds :

Any summons server or other person who shall make any wilful default in serving any summons shall be liable to a penalty not exceeding forty shillings. Service of summons.

Any sub-inspector, head or other constable, or other person who shall wilfully neglect to return any unexecuted warrant at the time required by the justices, or who shall commit any wilful default in respect to the execution of the same, shall be liable to a penalty not exceeding five pounds : Return of unexecuted warrants or execution of warrants.

Any person in whose possession any books, papers, or other effects belonging to the justices at petty sessions, or relating to such court, shall be, upon or after the death, resignation, suspension, or dismissal of any petty sessions clerk, and who shall refuse to deliver up the same to the sub-inspector or head constable or other person directed by the justices under the provisions of this Act to demand the same, shall be liable to a penalty not exceeding ten pounds : Retaining petty sessions books, &c.

Any person who shall oppose or hinder any search under any warrant issued by the justices for the discovery of any such books, papers, or other effects, shall be liable to a penalty not exceeding five pounds : Hindering search for petty sessions books, &c.

Any person having any other duty to perform under the provisions of this Act, and who shall wilfully neglect to perform the same, shall be liable to a penalty not exceeding five pounds : Any other neglect of duty.

And it shall be lawful for the said justices to award the said penalties ; and if the same shall be imposed upon any member of the constabulary force, the amount shall be deducted from his pay ; but if imposed on any other person, then, in default of payment thereof forthwith, or at such time as the justices shall fix, such person may be committed to prison for the like period, in proportion to the amount of the penalty imposed, for which the justices are authorized to commit any offender in default of distress for any other penalty under the provisions of this Act.

36. In all proceedings under this Act the several forms in the schedule to this Act contained, or forms to the like effect, shall be deemed good, valid, and sufficient in law, and shall be the proper forms to be used, even in cases in which other and different special forms shall be or shall have been provided by the particular Act or Acts under which the information or complaint shall be made ; but no departure from any of the said first-mentioned forms, or omission of any of the particulars required thereby, or use of any other words than those indicated in such Forms in the schedule to be deemed valid.

forms, shall vitiate or make void the proceeding or matter to which the same shall relate, if the form used be otherwise sufficient in substance and effect, and the words used clearly express the intention of the person who shall use the same; and it shall be sufficient in any of the forms provided by this Act to state sums of money either in words or figures, according as the person using the same shall see fit: Provided always, . . . that the sealing of any warrant or other form of procedure under this Act shall not be necessary in addition to the signature of the justice by whom the same shall be signed.

General terms
to be used in
the forms of
procedure.

37. And with a view to simplify forms, the prosecutor or party at whose instance the proceeding shall take place may be termed in such forms the "complainant," whether he shall be an informant or prosecutor or otherwise; and the matter of the proceeding may be termed the "complaint," whether founded on an information or otherwise; and in summary proceedings the decision of the justices may be termed their "order," whether the same shall be a conviction or otherwise.

Description of
property in
informations.

38. It shall be sufficient in any information or complaint, or the proceedings thereon, to describe the property belonging to or in the possession of partners, joint tenants, parceners, or tenants in common, as the property of any one of such persons who shall be named, and of another or others, without naming them, as the case may be; and any work or building made, maintained, or repaired at the expence of any county or place, or any materials for the making, altering, or repairing of the same, as the property of the inhabitants of such county or place respectively; ~~and any goods provided by guardians of the poor or their officers respectively for the use of the poor, as the goods of the guardians of the poor of the union to which the same belong, without naming any of them; . . .~~ and any property of any persons described in any Act of Parliament, or in any charter or letters of incorporation, as commissioners, directors, trustees, or by any other general designation whatsoever, as the property of such commissioners, directors, trustees, or persons described by such other general designation, without naming them; and whenever it may be necessary to mention any of such persons or parties in any suit, information, or complaint, it shall be sufficient to describe them in manner aforesaid.

No objection
to be allowed
for variances
between
information
and evidence,
&c.

39. In cases of summary proceedings no variance between the information or complaint and the evidence adduced in support thereof, as to the time at which the offence or cause of complaint shall be alleged to have been committed or to have arisen, shall be deemed material, if it be proved that such information or complaint was in fact laid or made within the time limited by law for laying or making the same; and any variance between such information or complaint and the evidence adduced in support thereof, as to the place in which the same shall be

alleged to have been committed or to have arisen, shall not be deemed material, provided that the said offence or cause be proved to have been committed or to have arisen within the jurisdiction of the justice or justices by whom such information or complaint shall be heard and determined; and no objection shall be taken or allowed in any proceedings to any information, complaint, summons, warrant, or other form of procedure under this Act, for any alleged defect therein in substance or in form, or for any variance between any information, complaint, or summons, and the evidence adduced on the part of the complainant or prosecutor at the hearing of the case in summary proceedings, or at the examination of the witnesses by a justice or justices in proceedings for indictable offences: Provided always, that if any such variance or defect shall appear to the justice or justices at the hearing to be such that the defendant has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime, in cases of proceedings for offences, to commit the said defendant to gaol, or to discharge him, upon his entering into a recognizance conditioned for his appearance at the time and place to which such hearing shall be so adjourned.

40. No receipt required to be given under the provisions of this Act shall be subject to any stamp duty payable to the Crown. Receipts not to be subject to stamp duty.

41. Nothing in this Act shall extend to the police district of Dublin Metropolis, or alter or affect in any manner whatsoever any of the provisions or enactments contained in any Act regulating the powers and duties of justices of the peace or of the police of the district of Dublin Metropolis, or be deemed applicable in any way to the same, save so far as relates to the backing or executing of any warrants, or to alter the provisions of any Act or Acts whereby any part of any county is annexed for the purpose of criminal proceedings to any other county, or whereby any offences committed in one county are authorized to be tried in any other county. Act not to extend to police district of Dublin Metropolis, &c.

42. Nothing in this Act shall extend or be construed to extend to any information or complaint or other proceeding under or by virtue of any of the Acts relating to her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office, or relating to the preservation of game, except that all proceedings as to the same may be in the forms of procedure required by this Act, or as near thereto as the circumstances of the case will admit. Act shall not extend to Revenue, &c. cases, except as to forms of procedure.

[*S. 43 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

44. In the interpretation of this Act and of the schedules thereto annexed, save where there is anything in the subject or Interpretation of terms.

context repugnant to such construction, the word "county" shall be deemed to include . . . "riding of a county"; the expression "summary jurisdiction" shall be deemed to mean any case as to which a summary conviction or order may be made by a justice or justices out of quarter sessions; and "summary proceedings" shall mean any proceedings in respect to such case; the word "complaint" shall include "information," and "complainant" shall include "informant" or "prosecutor"; the word "order" shall include "conviction"; the word "quarter sessions" shall include any general sessions of the peace for the county; the word "justice" shall mean "justice of the peace," and shall include the "chief magistrate" for the time being or the "borough justices" of any corporate town; the word "constabulary" shall mean the constabulary force of Ireland; the words "proper officer of the recorder's court," shall mean the town clerk, where there shall be a town clerk, and where there shall be no town clerk, the person whose duty it shall be to make entries of the proceedings; . . . the word "~~gaol~~" shall include any "~~house of correction~~" or "~~bridewell~~," or other "~~place~~" of imprisonment of the county; the word "~~keeper of the gaol~~" shall include "~~bridewell keeper~~," or the keeper or governor of any other prison; the word "goods" shall include "chattels"; . . . and the references in this Act by letters to the forms to be used shall be to the forms in the schedule to this Act annexed.

Short title of Act.

45. In citing this Act in other Acts of Parliament, or in any legal or other instruments or proceedings, it shall be sufficient to use the expression "The Petty Sessions (Ireland) Act, 1851."

[S. 46 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

Extent of Act.

47. This Act shall extend and be construed to extend to Ireland only, save and except the several provisions hereinbefore contained respecting the backing and execution of warrants and the taking of examinations; and nothing in this Act shall be deemed to alter or affect the jurisdiction or practice of the Court of Queen's Bench in Ireland.

Schedule to be part of Act.

48. The schedule to this Act annexed shall be deemed to be part of this Act.

* * The words in the margin in *italics*, or words to the like effect, are to be used according to the circumstances of each case.

SCHEDULE.

FORMS (A.)—Proofs.

(A a.) *Information.*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

The information of *A.B.* of *M.N.* who saith on his ⁽¹⁾ that ⁽²⁾

(1) *Oath or affirmation.*

(2) State CAUSE OF COMPLAINT, with time and place.

Adding:—

For the arrest of a witness *And he further saith that X.Y. can give material evidence, but is not likely to attend voluntarily; or, (and is keeping out of the way of personal service of summons); or, for sureties for the peace, And he makes this information for the safety of his person and property, and not from malice or revenge against the said C.D.*

Taken before me, this _____ day of _____, in the year eighteen hundred and fifty _____, at _____, in the said county.

Signed _____ Justice of said county.

(A b.) *Deposition of a Witness.*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

The deposition of *X.Y.* of *M.N.*, taken in the presence and *C.D.* who stands charged that ⁽¹⁾

(1) CAUSE OF COMPLAINT, with time and place.

(2) *Oath or affirmation.*

(3) DEPOSITION as nearly as possible in the words of the witness, and to be signed by him, if he will.

The said deponent saith on his ⁽²⁾ that ⁽³⁾

(A c.) *Statement of the Accused.*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

A charge having been made against *C.D.* before the undersigned justice that ⁽¹⁾

(1) CAUSE OF COMPLAINT, with time and place.

and the said charge having been read to the said *C.D.*, and the witnesses for the prosecution having been severally examined in his presence, and the said *C.D.* having been first duly cautioned that he was not obliged to say anything, but that whatever he did say might be given in evidence against him upon his trial, saith as follows: ⁽²⁾

(2) STATEMENT of prisoner in his very words, or as nearly so as possible, and to be signed by him, if he will.

Taken before me this _____ day of _____, in the year eighteen hundred and fifty _____, at _____, in said county.

Signed _____ Justice of said county.

* * In all forms of procedure the name and description of each party is to be specified in like manner and with the same particulars as is required by this Act (Sect. 35) as to any party bound by any recognizance.

* The informant or witness may be bound to prosecute or give evidence by the following form of recognizance at foot of his information or deposition:

And the said informant (or deponent) binds himself to attend at _____, on the _____, to prosecute (or to give evidence) against the said *C.D.* for the said offence, or otherwise to forfeit to the Crown the sum of _____

Taken before me this _____ day of _____ in the year eighteen hundred and fifty _____ at _____ in the said county.

Signed _____ Informant (or Deponent)
 Signed _____ Justice of the said county.

(A d.) *Solemn Declaration.*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

I *A.B.* do solemnly and sincerely declare, that ⁽¹⁾

⁽¹⁾ MATTER of declaration.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act passed in the sixth year of the reign of his late Majesty King William the Fourth, chapter sixty-two, for the abolition of unnecessary oaths.

Signed _____

Made and subscribed before me, this _____ day of _____
 in the year eighteen hundred and _____
 Signed _____ Justice of said county.

FORMS (B.)—Process to enforce Appearance.

(B a.) *Summons.*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

Whereas a complaint has been made to me that ⁽¹⁾

⁽¹⁾ CAUSE of COMPLAINT, with time and place.

This is to command you to appear as a ⁽²⁾
 on the hearing of said complaint at _____, on the
 day of _____, at _____ o'clock, before such justices as
 shall be there.

⁽²⁾ Insert: *Defendant* or *Witness*.

Signed _____ Justice of said county.

To _____ This _____ day of _____ 185 .

(B b.) *Warrant to arrest.*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

Whereas a complaint has been made on oath and in writing that ⁽¹⁾

⁽¹⁾ CAUSE of COMPLAINT, with time and place.

And ⁽²⁾

⁽²⁾ If the case be so, add—
 For defendant,
Whereas the said C.D. has neglected to appear in obedience to a summons.

For witness,
Whereas oath has been made that X.Y. can give material evidence, but will not attend voluntarily; or, is purposely keeping out of the way of personal service of a summons.

This is to command you to whom this warrant is addressed to arrest the said

*If after indictment—
 It has been certified to me that (state as in certificate of clerk of Crown or peace).*

⁽³⁾ _____
 of _____

⁽³⁾ PERSON against whom warrant is issued.

and to bring him before me or some other justice of the county to answer to the said complaint.

Signed _____ Justice of said county.

⁽⁴⁾ ADDRESS.
The Sub-Inspector of Constabulary," or name of person who is to execute the warrant.

To ⁽⁴⁾ _____ This _____ day of _____ 185 .

A.D. 1851.]

Petty Sessions (I.)

[14 & 15 V. c. 93.] 981.

Form (C.)—Recognizance (to appear, &c.)

Complainant. } Petty sessions district of _____

Defendant. } County of _____

(1) *In binding a party, &c., state CAUSE of COMPLAINT, with time and place:
In binding petty sessions clerk or pound keeper, state fact of his appointment.*

Whereas (1)

The undersigned principal party to this recognizance hereby binds himself to perform the following obligation, viz., to (2)

(2) OBLIGATION.
To attend (the court of assizes, or quarter sessions, or petty sessions,) at _____, at _____ on the _____ day of _____, at _____ o'clock, and there:—

To prefer (or prosecute, or give evidence upon) a bill of indictment against the said C.D. for the said offence;

*or
To surrender himself to the keeper of the gaol at F., and plead to any indictment found against him for said offence, and take his trial for the same;*

*or
To prosecute (or answer) to said complaint;*

*or
To prosecute his appeal against the order made on the _____ day of _____, upon the said complaint, and not depart the court without leave;*

*or
To keep the peace (and be of good behavior) towards all her Majesty's subjects, and particularly towards A.B. for the space of _____;*

*or
To perform faithfully and diligently the several duties required of him as petty sessions clerk under the provisions of "The Petty Sessions Act, Ireland, 1851";*

*or
To perform faithfully and diligently the several duties required of him as pound keeper under the provisions of "The Summary Jurisdiction Act, Ireland, 1851."*

And the said principal party, together with the undersigned sureties hereby severally acknowledge themselves bound to forfeit to the Crown the sums following, viz.:—

The said principal party the sum of _____, and the said sureties the sum of _____ each, in case the said principal party fails to perform the above obligation.

Signed { M.N. Principal party.
 { O.P. Sureties.
 { Q.R.

Taken before me this _____ day of _____, at _____

Signed _____ Justice of said county.

I certify that the said M.N. has not performed the above obligation.

(3) FORFEITURE.

Signed _____ Justice (or Clerk of peace, &c.)

This _____ day of _____, 185 .

I order that the sum of _____ be levied off the goods of the said M.N., and the sum of _____ off the goods of each of the said sureties O.P. and Q.R.

(4) ESTREAT.

Signed _____ Justice of said county.

This _____ day of _____, 185 .

* * * * *

FORMS (E.)—Warrants.

(E a.) *Warrant of Execution (Summary Jurisdiction).*

Complainant. } Petty sessions district of _____
Defendant. } County of _____

Whereas upon the hearing of a complaint that ⁽¹⁾

an order was made on the _____ day of _____ by the justices present against the said :—

⁽²⁾ _____ of _____to the following effect, viz. :—⁽³⁾And whereas ⁽⁴⁾

And whereas the said order has not been complied with :
 This is to command you to whom this warrant is addressed
 to execute the said order against the said person as
 follows :—⁽⁵⁾

And for this the present warrant shall be a sufficient
 authority to all whom it may concern.

The sum levied to be paid to ⁽⁶⁾

The warrant to be returned in _____ days if not executed.

Signed _____ Justice of said county.

This _____ day of _____ 185 .

To ⁽⁷⁾ _____ of _____

⁽¹⁾ CAUSE OF COMPLAINT, with time and place. In ejectments, the defendant has refused to give up to the plaintiff possession of _____ situate at _____ on the termination of his tenancy.

⁽²⁾ PERSON against whom order was made.

⁽³⁾ ORDER.

Impressment in addition or default. { Fine or debt. To pay for fine (or debt) the sum of _____, and for costs the sum of _____, (forthwith) or (in _____ days). And also in addition, or And in default of payment (or distress). Imprisonment. To be imprisoned for the period of _____ with (or without) (hard labour).

Ejectment. To be ejected from said premises in _____ days, and pay the sum of _____ to the complainant for costs.

Dismissal. That his complaint be dismissed on the merits (or without prejudice), and that he do pay the sum of _____ to the defendant for costs.

⁽⁴⁾ RECITALS.

After appeal. The Court of Appeal decided on the _____ day of _____, that (Order).

No distress. He has (or admits that he has, or it has been returned to a warrant of distress that he has) no goods.

Distress ruinous. A distress would be ruinous to him (or to his family).

⁽⁵⁾ EXECUTION.

Committal in addition or default. { To distrain. To levy said sums by distress and sale of his goods.

And in addition, or And in default of distress.

To commit. To lodge him in the gaol at F., to be imprisoned there for the period of _____ with (or without) hard labour (unless said sums be sooner paid).

To eject. To enter and give possession of said premises to the complainant or his agent in _____ days.

⁽⁶⁾ PAYMENT.

In all warrants to constabulary insert "Clerk of petty sessions." In all other warrants insert name of person to whom sum was ordered to be paid, if the justices so think fit.

⁽⁷⁾ ADDRESS.

"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.

A.D. 1851.]

Petty Sessions (I.)

[14 & 15 V. c. 93.] 983

(1) CAUSE of COMPLAINT, with time and place.

(2) RECITALS.

If indictment found—

Whereas a bill of indictment has been found against the said C. D. for the said offence.

Adjournments—

Whereas the hearing of the said complaint has been adjourned to the

that (1)
day of at And (2)

Remands on arrest—

Whereas the said C. D. has been brought before me under a warrant of arrest, and the said complaint is to be heard on the day of at

Refractory witness—

Whereas X. Y., a material witness, has, without just excuse, refused to make oath as a witness (or to answer certain questions) (or to enter into recognizance to give evidence on the trial of the said C. D.) in that behalf.

(3) NAME of person to be committed.

(4) PERIOD of imprisonment.

For trial—

Until his trial for said offence and he shall be discharged by due course of law.

For witness—

Until the trial of the said C. D. unless he shall in the meantime enter into such recognizance as required (or until the day of , unless he shall in the meantime consent to answer as required).

For adjournments—

Until the above time of adjournment (or hearing) when he shall have him at the above place.

(5) ADDRESS.

"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.

(E b) Warrant to commit (or detain) for Trial, &c.

Complainant. } Petty sessions district of
Defendant. } County of

Whereas a complaint was made on the day of , on the oath of X. Y.

This is to command you to whom this warrant is addressed to lodge the said

(3) of

in the gaol at F., there to be imprisoned by the keeper of said gaol, as follows:—(4)

And for this the present warrant shall be a sufficient authority to all whom it may concern.

Signed Justice of said county.
This day of
To (5) of

(E c.) Warrant to convey before a Justice of another county.

Complainant. } Petty sessions district of
Defendant. } County of

(6) CAUSE of COMPLAINT, with time and place.

Whereas a complaint was made that (6)

And whereas I have taken the deposition of X. Y. as to the said offence.

And whereas the other witnesses reside in the county of

This is to command you to convey the said

(7) NAME of accused person. (7)

before some justice of the last-mentioned county, near the above place, and to deliver to him this warrant and the said deposition.

Signed Justice of the first-mentioned county.

This day of 185 .

To (8) of

(8) ADDRESS.

"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.

(E d.) *Warrant to discharge from Gaol.*

Complainant. } Petty sessions district of _____

Defendant. } County of _____

Whereas a complaint was made that ⁽¹⁾⁽¹⁾ CAUSE OF COMPLAINT, with time and place.

And whereas the said

⁽²⁾ _____ ⁽²⁾ NAME of prisoner.

of _____

⁽³⁾ _____⁽³⁾ RECITALS.

For accused,

Was committed to take his trial for said offence, but has now duly entered into recognizance to appear for that purpose.

For witness,

Was committed for refusing to enter into recognizance to give evidence on the trial of C.D. for said offence, but has now done so (or and the said C.D. for want of evidence has not been bailed or committed).

This is to command you to discharge the said person so committed, unless he shall be in your custody for some other cause.

Signed _____ Justice of said county.

This _____ day of _____, 185 .

⁽⁴⁾ To the keeper of the gaol at _____ ⁽⁴⁾ ADDRESS.(E e.) *Warrant to search.*

Complainant. } Petty sessions district of _____

Defendant. } County of _____

Whereas it appears on the oath of A.B. of M.N., that the following articles of property, viz. ⁽¹⁾⁽¹⁾ DESCRIPTION of articles stolen.

were stolen, and that there is reason to suspect that the same is concealed in _____, at _____:

This is, therefore, to authorize and require you to enter in the daytime into the said premises, and to search for said property, and to bring the same and the persons in whose possession the same may be found before me or some other justice.

Signed _____, Justice of the said county.

⁽²⁾ ADDRESS.*"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.*⁽²⁾ To _____ This _____ day of _____, 185 .

FORM (F.)—Receipt for Prisoner.

County of _____

hereby certify, that I have received from A.B. ⁽¹⁾ of ⁽¹⁾ NAME, rank, &c.
 _____, the body of C.D., together with a warrant under
 the hand of J.S., Esq., Justice for the county of _____
 and that the said prisoner was ⁽²⁾ _____ at the time ⁽²⁾ "sober," or as the case may
 he was so delivered into my custody. re.

Signed _____

Keeper of the gaol at _____

This _____ day of _____, 185 .

FORMS (G.)—Indorsements on Warrants.

RETURN of no person or goods.
(1) *The person,*
or
sufficient goods of the person.

(1) (G a.) I certify that after diligent search (and for the following reasons) :

against whom the within warrant was issued, cannot be found.

Signed _____ { To whom this warrant was
This delivered for execution.
day of _____, 185 .

CERTIFICATE of no person or goods.
(2) For constabulary—*Certify.*
For bailiff—*Make oath.*
(3) *Is to be found,*
or
has goods.

(G b.) I (2) that I have reason to believe that the person against whom the within warrant was issued (3)

at _____ in the county of _____ ; and that I believe the signature to the within warrant to be in the handwriting of the said justice.

Signed _____ { To whom this warrant was
This delivered for execution.
day of _____, 185 .
To _____ of _____

BACKING by inspector general or other justice.
(4) For commissioners of police or constabulary—*Certified.*
For bailiff—*Proved on oath.*
(5) In backing warrant to arrest, add, if so intended—
and to bring the said person before me or some other justice of said county.

(G c.) It being (4) _____ to me as above, I hereby indorse the within warrant for execution in said county of _____ (5) (or metropolitan district or other place).

Signed _____
Inspector general (or deputy, or justice).
This day of _____, 185 .

To _____

FORM (H.)—Appeal.

_____ Complainant. } Petty sessions district of _____
_____ Defendant. } County of _____

(1) CAUSE of COMPLAINT, with time and place.

(2) PERSON against whom order was made.

(3) ORDER.

an order was made on the _____ day of _____, by the justices present, against the said _____ (2)

Imprisonment in addition or default. { Fine or debt. To pay the sum of _____ to the Crown and the sum of _____ to the complainant, with costs (forthwith) or (in _____ days)
And in addition, or And in default of payment (or distress). Imprisonment. To be imprisoned for the period of _____ with (or without) hard labour.

to the following effect, viz. :—(3)

Ejectment. To be ejected from said premises in _____ days, and pay the sum of _____ to the complainant for costs.

Dismissal. That his complaint be dismissed on the merits (or without prejudice), and that he do pay the sum of _____ to the complainant for costs.

Signed _____
This Justice of the said county.
day of _____, 185 .

The person against whom said order was made hereby
appeals against the same to the next court of quarter
sessions (or recorder's sessions) to be held at

Signed _____, Appellant.

This _____ day of _____, 185 .

I certify, that notice of said appeal was duly given :
And that the said appellant has duly entered into a
recognizance to prosecute said appeal.

CERTIFICATE by clerk of petty
sessions.

Signed _____

Clerk of above petty sessions.

This _____ day of _____, 185 .

I certify, that upon the hearing of said appeal on the
day of _____, the court of quarter sessions
(or recorder) ordered that (state order).

CERTIFICATE by clerk of peace
or officer of recorder's court
of order made on appeal.

Signed _____

Clerk of the peace (or officer
of the recorder's court).

This _____ day of _____, 185 .

FORMS (I.)—Certificates.

(I a.) Certificate of Order.

Complainant. } Petty sessions district of _____
Defendant. } County of _____

I certify, that upon the hearing of a complaint that (1)

an order was made on the _____ day of _____ by
the justices present against (2)
of _____
to the following effect, viz. :—(3)

(1) CAUSE OF COMPLAINT, with
time and place. In ejectments,
the defendant had refused to
give up to the plaintiff posses-
sion of _____, situate at _____,
on the termination of his ten-
ancy.

(2) PERSON against whom order
was made.

(3) ORDER.

Imprisonment in
addition or default.
Fine or debt. To pay for
fine (or debt) the sum of _____
and for costs the
sum of _____ (forthwith)
or (in _____ days).
And in addition, or
And in default of pay-
ment (or distress).
Imprisonment. To be im-
prisoned for the period of _____
with (or without)
hard labour.

Ejectment. To be ejected from
said premises in _____ days, and
pay the sum of _____ to the com-
plainant for costs.

Signed _____, Justice of said county.

This _____ day of _____, 185 .

(I b.) *Of Indictment being found.*

I hereby certify, that at the ⁽¹⁾ County of _____
 held at _____ day of _____, in the said county, on the
 _____ day of _____, a bill of indictment
 was found by the grand jury against *C.D.*, therein described
 as *C.D.* of N., for that on the _____ day of _____
 at _____ ⁽²⁾ _____;
 and that the said *C.D.* has not appeared or pleaded to said
 indictment.

Dated this _____ day of _____.

Signed, _____

Clerk of Crown [or peace],

This _____ day of _____, 185 _____.

(I c.) *Of Consent to Bail.*

Petty sessions district of _____
 County of _____
 Whereas on the _____ day of _____,
C.D. was committed to the gaol at _____, charged
 with ⁽³⁾ _____,
 I hereby consent to the said *C.D.* being bailed by recog-
 nizance, himself in the sum of _____, and [two]
 sureties in the sum of _____ each.

Signed, _____, Justice of said county.

This _____ day of _____, 185 _____.

CHAPTER XCVII.

AN ACT to amend the Church Building Acts.^[1]

[7th August 1851.]

[*Preamble recites* 58 Geo. 3. c. 45; 59 Geo. 3. c. 134; 3 Geo. 4. c. 72;
 5 Geo. 4. c. 103; 7 & 8 Geo. 4. c. 72; 1 & 2 Will. 4. c. 38; 2 & 3
 Will. 4. c. 61; 7 Will. 4. & 1 Vict. c. 75; 1 & 2 Vict. c. 107;
 2 & 3 Vict. c. 49; 3 & 4 Vict. c. 60; 7 & 8 Vict. c. 56; 8 & 9
 Vict. c. 70; 9 & 10 Vict. cc. 68, 88; 11 & 12 Vict. cc. 37, 71.]

1. Where any body or person endows with such permanent provision in land or money as is satisfactory to her Majesty's Commissioners for Building New Churches and the bishop of the diocese any church for which pew rents have been previously fixed by the said commissioners under the provisions of the Church Building Acts, and where such pew rents have not been assigned or appropriated under any local Act, such endowment or provision being made in lieu of and as a substitute for such pew rents, in whole or in part, it shall be lawful for the said commissioners, by an instrument under their common seal, with the consent of such bishop under his hand and seal, setting forth the nature of such endowment, and that it was made for the object aforesaid, to order and declare that such pew rents shall with respect to such church cease and determine; and the same

Where a per-
 manent pro-
 vision is
 secured for
 any church in
 lieu of pew
 rents, commis-
 sioners may
 direct pew
 rents to cease,
 &c.

[¹ Short title, "The Church Building Act, 1851." See 55 & 56 Vict. c. 10.]

shall, according to such order and declaration, cease and determine in whole or in part; and the seats or pews so exempted from rent shall thenceforth be at the disposal of the churchwardens of such church in like manner as the seats or pews of an ancient parish church; but the pew rents then due and payable shall nevertheless be payable and recoverable in the same manner as if such order had not been made.

Compensation
for loss of fees
and offerings
on formation
of district
chapelry.

2. In all cases where any district chapelry has already been or is hereafter formed under the authority of the Church Building Acts, and where, by the order in council forming such district chapelry, the fees or any part thereof arising from the performance of such of the offices of the church as are performed in the church of such district chapelry have been reserved, or such fees otherwise belong, to the then incumbent of the original parish or district (out of which such district chapelry is taken) during his incumbency, or to such incumbent and his successors, it shall be lawful for the said commissioners, out of any monies hereafter placed at their disposal for that purpose, (not being monies placed at their disposal for the building or contributing to the building of new churches,) to assign to such incumbent during his incumbency, if he still remain incumbent, or to such incumbent, as the case may require, such an annual sum as may appear to the said commissioners a just and reasonable compensation for the loss of any fees, dues, oblations, or offerings which such incumbent may sustain by reason of the transfer thereof, under the provision herein-after contained, to the incumbent of the district chapelry.

The like in
respect of
consolidated
chapelries.

3. Where the fees arising from the performance of the offices of the church of a consolidated chapelry already or hereafter formed under the Church Building Acts are under such Acts reserved to the incumbents of the parishes out of which such consolidated chapelry is formed during their respective incumbencies, unless voluntarily relinquished by them or either of them, compensation may be made as aforesaid by the said commissioners to such incumbents, if still entitled to such fees, for the loss of any fees, dues, oblations, or offerings, which such incumbents may sustain by reason of the transfer thereof, under the provision herein-after contained, to the incumbent of such consolidated chapelry.

The like in
respect of
churches built
and endowed,
&c. under
Church Build-
ing Acts.

4. Where the fees or a portion thereof arising from the performance of offices of the church in the church, with a particular district thereto, already or hereafter built and endowed, and the patronage thereof specially declared, under the provisions of the Church Building Acts or this Act, are reserved or belong to the incumbent of the original parish or district out of which such particular district is taken, compensation may be made as aforesaid by the said commissioners to the then incumbent, or to such incumbent, as the case may require, for the loss of any fees, dues, oblations, or offerings by reason of the transfer thereof,

under the provision herein-after contained, to the incumbent of such church.

5. After such compensation as aforesaid has been awarded by the said commissioners or otherwise to the then incumbent, or to such incumbent, as the case may require, of the original parish or district, and such compensation has been certified by the said commissioners, (which certificate shall be registered in the registry of the diocese,) all the fees or portion of fees reserved by the order in council, or otherwise belonging to the incumbent of the original parish or district during his incumbency, or to the incumbent thereof for the time being and his successors, shall, notwithstanding such reservation or claim, together with all mortuary and other ecclesiastical fees, dues, oblations, or offerings arising within such district chapelry, consolidated chapelry, or particular district, belong and be paid to the incumbent for the time being of such district chapelry, consolidated chapelry, or particular district, for his own use and benefit.

After compensation, fees and offerings to belong to incumbent of district chapelry, &c.

6. Where the fees or any part thereof arising from the performance of the offices of the church, or any of them, are not reserved or do not otherwise belong to the incumbent of the original parish or district out of which the district chapelry, consolidated chapelry, or particular district is taken, all the mortuary and other ecclesiastical fees, dues, oblations, or offerings arising within such district chapelry, consolidated chapelry, or particular district, shall from and after the passing of this Act belong and be paid to the incumbent for the time being of such district chapelry, consolidated chapelry, or particular district, notwithstanding no compensation for the loss thereof has been made to the incumbent of the original parish or district.

Mortuary and other fees, &c. not belonging to incumbent of original parish, to belong to incumbent of district chapelry, &c.

7. In all cases in which any body or person hereafter endows in manner herein-after mentioned, to the satisfaction of the said commissioners, any church or any building intended to be consecrated as a church which has been or hereafter shall be erected, purchased, or acquired by such body or person, and where also in any case such body or person hereafter provides a competent fund, as herein-after mentioned, for the repairs of such church or building, it shall be lawful for the said commissioners, subject to no restriction in consequence of the amount of the population of the ancient parish, or new parish or district, or extra-parochial place, or of the church accommodation therein, or distance of such church or building from any existing church, or otherwise, (except as to notices to patron and incumbent as herein-after mentioned,) with the consent of the bishop of the diocese, if under all the circumstances it appear to them fit and proper so to do, to declare by an instrument under their common seal the right of nominating a minister to such church or building to be for ever after the due consecration thereof in the body or person so having erected or procured and endowed the same, their or his successors, heirs, or assigns, or in such other body or persons as is herein-after provided: Provided always, that nothing herein

Right of patronage in case of building or endowing new church.

1 & 2 Will. 4.
c. 38.

contained shall deprive the patron of such parish or district as aforesaid of the option given him by the Church Building Act, 1831, to build an additional church or purchase a building for that purpose, and endow the same to the satisfaction of the bishop of the diocese, as mentioned in the said Act, or of the preference in that case given him by the said Act over any other person or persons so intending to build such new church or purchase such building as aforesaid.

Commissioners
may accept,
for the purpose
of an endow-
ment and a
repair fund,
lands, &c. and
money.
3 & 4 Vict.
c. 60.

8. The exemption from the provisions of the Mortmain Acts, and the restrictions applicable to such exemption, contained in the Church Building Act, 1840, shall be applicable to any endowment or grant or conveyance for the purpose of a repair fund of any such church or building; and, subject as aforesaid, the said commissioners may accept by way of endowment, and for the purpose of a repair fund, for such church or building, such permanent provision as they may consider satisfactory, consisting of all or any of the following descriptions of property, namely, land, tithes, rentcharges, and other tenements or hereditaments, money charged on land or invested in the funds; and such endowment and repair fund shall be exclusive of and in addition to the pew rents (if any) of such church or building; and as regards any endowments to be made for the purpose of obtaining the patronage as aforesaid, the same may be vested in such trustees, not exceeding five, as the said commissioners direct; and such trusts thereof, and for the sale or conversion thereof, and re-investment of the produce either in land or in government securities, with powers of granting building or other leases, and all other powers for the due administration of such endowments and repair fund, and appointment of new trustees, may be declared as the said commissioners think fit.

In whom right
of patronage
may be vested.

9. The right of perpetual nomination may, under the instrument declaring the same as aforesaid, be vested in the body or person so having erected or procured and endowed such church or building, their or his successors, heirs, and assigns, or in their or his nominee, or such trustees to be named in the said instrument as they or he may signify to the said commissioners before the execution of such instrument by the said commissioners, or, in case such church or building has been or shall be built or purchased and endowed by subscription, then in such body or person, their or his successors, heirs, or assigns, or such trustees to be named in such instrument, as the major part in value of the subscribers of not less than fifty pounds each may signify to the said commissioners before the execution of such instrument by the said commissioners.

Appointment
of new
trustees, &c.

10. If any of the trustees to whom the right of nomination to any such church or building is in the first instance granted under such instrument as aforesaid die, resign, or become incapable of acting, or be desirous of retiring from such trust,

the surviving or continuing trustees or trustee, or the majority of the surviving or continuing trustees where more than two, shall appoint new trustees or a new trustee in the place of the trustees or trustee so dying, resigning, or becoming incapable as aforesaid, unless a different mode of electing or power of nominating new trustees have been agreed upon in the first instance between the said commissioners and the body or person building or purchasing, or obtaining, acquiring, and endowing, such church or building, or, in case of the same being or having been built or purchased and endowed by subscription, then between the said commissioners and the major part in value of the subscribers thereto of not less than fifty pounds each, such agreement to be signed by such body or person, or by the majority in value of such subscribers, and sealed by the said commissioners, and in each such case such new trustees or trustee shall be appointed in conformity to such agreement; and every trustee on his nomination, and also so often as he exercises or concurs in exercising the right of nomination of which he is a trustee, shall sign a declaration that he is a member of the Church of England; and on the appointment of a trustee it shall not be necessary to make any conveyance of the right of nomination to the said church; and when any trustee or trustees may have died, resigned, or become incapable of acting, the surviving or continuing trustee or trustees may continue to act, notwithstanding new trustees may not have been appointed, unless the contrary have been directed in any such agreement as aforesaid: Provided always, that if it should happen that all the trustees for the time being of such church should die without having appointed any other trustee or trustees to supply the vacancy or vacancies, it shall in each such case be lawful for the bishop of the diocese, under his hand and seal, to appoint any requisite number of trustees, not exceeding five: Provided also, that the patronage of any such church shall not at any time be vested in or held in trust by more than five persons, except where such patronage passes by descent to coparceners, or by the custom of gavelkind to more than five persons, or is conveyed by will or deed to more than five children, grandchildren, nephews, or nieces of the grantor or devisor.

Patronage not to be vested in more than five persons.

11. Previous to such declaration of the right of nomination being made by the said commissioners, application in writing shall be made by the body or person having built or purchased or acquired, or proposing to build or purchase or acquire and endow as aforesaid, such church or building, or by the major part in value of the subscribers thereto of not less than fifty pounds each, or by some person authorized on his or their behalf, to the said commissioners, setting forth the estimated amount of the population of the ancient parish or new parish or district or extra-parochial place, in which such church so built or proposed to be built, or such building so purchased or

Certain information to be sent to the commissioners before they declare right of patronage.

Notices to
patron and
incumbent.

proposed to be purchased or acquired, is situated, together with the estimated amount of accommodation provided in the several consecrated churches within such ancient parish or new parish or district or extra-parochial place, together with the estimated amount of the population of the district (if any district is proposed) for which such church or building is intended to provide, and the accommodation provided or proposed to be provided in such church or building, and its distance from the consecrated church or churches in such ancient parish or new parish or district or extra-parochial place; and copies of such application or notices containing the like information shall in every such case be sent by the said commissioners to the patron and incumbent respectively of such ancient parish or new parish or district or extra-parochial place, in order to afford such patron and incumbent respectively the opportunity of laying before the said commissioners, for their consideration, any statement or objections relating thereto; and if the district proposed for such church or building is to be taken out of any other ancient parish or new parish or district than the parish or district in which it is situate, such copies or notices as aforesaid shall also be sent by the said commissioners to the patron and incumbent of each such other parish or district; and the said commissioners shall not declare, or signify their intention of declaring, such right of nomination, until after the expiration of three months next after such copies or notices have been so sent (unless each such patron and incumbent in the meantime consent thereto); and such copies or notices may be served personally on or directed and sent by post to such parties respectively: Provided always, that the district proposed in such application may be subsequently varied, with the consent of the patron and incumbent of the ancient parish or new parish or district from which such district is to be taken, at any time before the consecration of such church or building, without any fresh copies of application or notices being required to be served on or sent to such parties respectively.

How notices
shall be sent
when patrons
are numerous.

12. In any case in which the patronage of any ancient parish or new parish or district is vested in and exercised by the inhabitants generally of such ancient parish or new parish or district, or by any body or class of persons exceeding five in number, it shall be and be deemed to be a sufficient compliance with the provisions herein-before mentioned as to notices to patrons to deliver or transmit the before-mentioned copies of applications or notices to two or more of such patrons, and to the churchwardens of such ancient parish or new parish or district; and the said commissioners shall not declare, or signify their intention of declaring, such right of nomination, until after the expiration of three months next after such copies or notices have been so delivered or transmitted, unless such patrons in the meantime consent thereto.

Instrument de-
claring right
of nomination

13. After the church or building built or purchased or acquired and endowed as aforesaid has been completely finished, and fitted

up for the performance of divine service, such instrument as aforesaid declaring the right of nomination may be executed by the said commissioners under their common seal, and by the bishop of the diocese, as a consenting party thereto; and after the due execution of such instrument, and the consecration of such church or building, such right of nomination may be exercised by the body, person or persons, in whom the same may be vested thereby, or by virtue of this Act, without requiring the consent either of the patron or the incumbent of the ancient parish or new parish or district or extra-parochial place in which such church or building is situate, and notwithstanding no compensation has been made to them or either of them, and notwithstanding any local Act of Parliament may have specially reserved such right of nomination; and such right of nomination, when vested in more than two persons, shall in every such case be exercised by the majority, unless otherwise particularly specified and agreed upon; and the body or person or trustees in whom the said right of nomination is so vested shall in every such case, after the consecration of such church or building, be patrons of the said church, by the name and style specified in the sentence of consecration; and such right shall be of the nature of real property; and every such instrument of nomination shall be registered in the registry of the bishop of the diocese.

may be executed after completion of new church; and after execution of such instrument, and consecration, of the church, right may be exercised, &c.

14. After the passing of this Act the sole jurisdiction of the bishop of the diocese, under certain circumstances conferred on him by the Church Building Acts, to declare under his hand and seal the perpetual patronage of any new church or building, or to assign a district thereto, shall cease and determine: . . .

Sole jurisdiction of bishop to declare such patronage, &c. to cease.

15. The existing powers and authorities vested in the said commissioners under the provisions of the Church Building Act, 1831, the Church Building Act, 1838, or of any other of the Church Building Acts, and the existing provisions thereof with respect to any church or building built or acquired and endowed, and the patronage thereof specially declared, and the assignment of a district thereto, under such Acts or any of them, or any matters or things relating to such church or building or district, or the incumbent or minister thereof, shall apply to and be in force with respect to any church or building built or acquired and endowed, and the patronage thereof specially declared under the provisions of this Act, and with respect to the assignment of a district thereto, and the incumbent or minister thereof, except so far as such powers, authorities, and provisions are altered, enlarged, or varied by or are repugnant to or inconsistent with the provisions of this Act.

Existing powers of commissioners shall extend to churches under this Act. 1 & 2 Will. 4. c. 38. 1 & 2 Vict. c. 107.

16. The powers and provisions of the Church Building Acts or this Act relative to the formation of any parish or district shall be applicable to the formation of any parish or district out

Powers of subdivision to apply to new parishes

formed by the Ecclesiastical Commissioners.

Provision for supplemental orders in council for performance of baptisms, churchings, and burials in churches of district chapelries.

of any new parish formed or hereafter to be constituted by or under the proceedings of the Ecclesiastical Commissioners.

17. Where a district chapelry has been already or is hereafter assigned to any church under the provisions of the Church Building Acts, and the order in council assigning such district chapelry does not direct that the offices of baptisms, churchings, and burials shall be performed in such church, or only directs that one or two of such offices should be performed therein, it shall be lawful for her Majesty, by any supplemental order in council, on a representation to be made to her Majesty by the said commissioners, with the consent of the bishop of the diocese, to order that all or any of the offices of baptisms, churchings, and burials, not included in such first order in council as aforesaid, shall be thereafter performed in such church, and that all the fees arising from the performance of the offices so authorized, or a part thereof, shall thereafter belong and be paid to the minister of such church, or after the next avoidance of the parish or district out of which such district chapelry is formed, or that all or a portion of such fees shall belong and be paid to the incumbent of such parish church or district; and all the laws in force relating to the performance of such offices, and the registration thereof, shall apply to such offices as may be performed under such supplemental order in council; provided that nothing herein contained shall authorize receiving fees for baptisms.

Provision as to marriages in case of new churches.
7 & 8 Vict. c. 56.

18. Anything in the Church Building (Banns and Marriages) Act, 1844, to the contrary notwithstanding, it shall be lawful for the said commissioners, if they think fit, with the consent in writing of the bishop of the diocese, to order and direct that all or a portion of the fees, dues, offerings, and other emoluments arising from the publication of banns or the solemnization of marriages in any new church already or hereafter built, acquired, and endowed, and the patronage thereof, specially declared under the provisions of the Church Building Act, 1831, or this Act, by the said commissioners or the bishop of the diocese, and in which church banns of matrimony may be published and marriages solemnized under the provisions of the Church Building (Banns and Marriages) Act, 1844, shall, from and after the next avoidance, from the time of such order and direction, of the parish church or district out of which the district of the new church is taken, or of the parish churches or districts, (if the district be taken out of more than one parish or district,) belong and be paid to the incumbent for the time being of such new church, for his own use and benefit.

1 & 2 Will. 4. c. 38.

Formation of consolidated chapelry out of

19.^[1] The provisions contained in the Church Building Act, 1845, relative to the formation of a consolidated chapelry out of

[¹ The provisions of 8 & 9 Vict. c. 70. s. 9. and this section, with respect to the ownership and exercise of the patronage of the church or chapel of any consolidated chapelry, are rep. 34 & 35 Vict. c. 82. s. 2., so far as regards consolidated chapelries created after the passing of that Act.]

parishes or extra-parochial places the boundaries of which are contiguous to each other, . . . shall extend and apply to the formation of any consolidated chapelry out of any parishes or districts already formed or hereafter to be formed, the boundaries of which are contiguous to each other.

ecclesiastical districts.
8 & 9 Vict.
c. 70.

20. If the major part in number of the patrons of the respective parishes or districts or extra-parochial places out of which any consolidated chapelry is to be formed by virtue of the said Act or this Act concur as to the formation of such consolidated chapelry, and as to the body or person in whom the right of patronage to the church of such consolidated chapelry shall belong, the formation of such consolidated chapelry, and the vesting of the patronage of the church thereof accordingly, under the provisions of the said Act or this Act, shall be as valid as if the patron of each such respective parish or district or extra-parochial place had severally agreed to the same.

Concurrence of majority of patrons of parishes sufficient for formation of consolidated chapelry, &c.

21. Whenever, under and by virtue of any local Act now in force, any parish cannot be brought within the provisions of the Church Building Acts touching the formation thereof of a parish or district, and whenever a representation is made to the said commissioners by the patron and incumbent of such parish, and by the vestry or select vestry or persons exercising the powers of vestry in ecclesiastical matters in such parish, that it will be for the spiritual benefit of such parish that it should be brought within such provisions, it shall be lawful for the said commissioners, if they think fit, with the consent of the bishop of the diocese, to apply and put in execution with respect to such parish the powers and provisions of the Church Building Acts and this Act relative to the formation of any parish or district; and such provisions shall thereupon be applicable to such parish, any local Act of Parliament to the contrary notwithstanding; provided that if the patronage of such church is vested in or exercised by the inhabitants thereof generally, or by any body or class of persons exceeding thirty in number, such application to the said commissioners shall be sufficient if signed by the incumbent of such parish and by the vestry or select vestry, or persons exercising the powers of vestry; and such vestry or select vestry or persons exercising the powers of vestry as aforesaid in such parish may meet for the purpose of considering and deciding whether it is expedient to make such representation as aforesaid to the said commissioners; and if the majority in number of those present at such meeting be in favour thereof, the churchwardens of such vestry, or the chairman of such meeting, may and shall sign such representation on behalf of such vestry or meeting.

Application of Church Building Acts to parishes regulated by local Acts.

22. Provided, that nothing in this Act contained shall alter or affect the provisions of the Parish of Manchester Division Act, 1850.

Saving of 13 & 14 Vict.
c. 41.

[S. 23 (abolishing select vestries formed under Church Building Acts) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Provisions of
6 & 7 Vict.
c. 37. s. 22. to
apply to an
ecclesiastical
corporation,
aggregate or
sole, with cer-
tain consents.

24. The powers and provisions contained in the New Parishes Act, 1843, section twenty-two, enabling persons and bodies corporate to give and grant lands, tithes, tenements, or other hereditaments for the purposes of the said Act, shall be construed and held to authorize any ecclesiastical corporation, aggregate or sole, to give or grant any land or tithes belonging to such corporation in the manner and for the purposes in the said Act mentioned: Provided always, that the power hereby given shall only be exercised with the following consents in writing; that is to say, in the case of a college, with the consent of the visitors; in the case of a bishop, with the consent of the archbishop of the province; in the case of a dean, with the consent of the dean and chapter; in the case of a canon or prebendary, with the consent of the patron of such canonry or prebend respectively; in the case of the incumbent of a benefice, with the consents of the bishop of the diocese and the patron of such benefice; and that the provisions of the Pluralities Act, 1838, respecting the party or parties to be deemed patron or patrons, and also respecting the manner in which and the party by whom any such consent is to be given, shall be held to apply to the consents hereby required.

1 & 2 Vict.
c. 106.

[S. 25, validating past marriages solemnized in certain churches, is local and personal.]

Nomination
to new church
in extra-
parochial place,
to belong to
bishop in
certain cases.

26. When a new church is built in an extra-parochial place, the right of nomination to such church, if not vested elsewhere, shall belong to the bishop of the diocese in which such church is situate and his successors; and when an extra-parochial place has been formed into a distinct and separate parish or district parish or district chapelry, under the provisions of the Church Building Acts, the right of nomination to the church of such distinct and separate parish or district parish or district chapelry, shall belong to and be exercised by the bishop of the diocese and his successors: Provided nevertheless, that nothing herein-before contained shall be construed to interfere with the powers given by this Act to the said commissioners, with the consent of the bishop of the diocese, specially to declare the patronage of a new church built in an extra-parochial place, and endowed to their satisfaction.

Apportion-
ment or release
of quit rents,
&c. ;

27. When any rent or other annual or recurring charge shall be payable out of any hereditaments, a part whereof is hereafter acquired under any of the provisions contained in the Church Building Acts, it shall be lawful for the persons or bodies giving or selling the said hereditaments, or for the said commissioners, if they take the said lands under the powers of the Church Building Acts, but in either case with the consent in writing of the person in the actual and lawful receipt of such rent or annual or recurring charge at the time of its apportionment, to apportion the said rent or charge in such manner as the said commissioners see fit, and to charge one part thereof on the hereditaments to be

conveyed to the said commissioners, and the other part thereof on the remainder of the hereditaments charged therewith; and the several portions of the said rent or charge so apportioned, which may be charged on the hereditaments so conveyed to the said commissioners and the remainder of the hereditaments originally charged respectively, shall in all respects, as far as circumstances will admit, be recoverable from or out of the hereditaments so conveyed and the remainder of the hereditaments originally charged respectively, in the same manner as the original rent or charge was recoverable from or out of the whole of the said hereditaments or any part thereof; but if the part of the hereditaments so charged, which is not acquired under the provisions contained in any of the Church Building Acts, be, in the opinion of the said commissioners and of the body or person having power under the said Acts or otherwise to sell or give the other part of the said hereditaments to said commissioners, of ample value to bear the whole of the said rent or charge, then such part of the hereditaments as may be conveyed to the said commissioners may be conveyed free from such rent or charge, and the remainder of the hereditaments shall continue liable to the whole thereof, in the same manner as the whole of the hereditaments were originally liable; and the said commissioners are hereby authorized to do all acts necessary for giving full effect to such apportionment or discharge and charge.

28. The freehold of any chapel already or to be hereafter built under the provisions of the Church Building (Burial Service in Chapels) Act, 1846, as a chapel for the burial service, when such chapel has been consecrated, and the freehold of any lodge, walks, or gates already or hereafter erected or made under such Act on any part of such burial ground as aforesaid, shall vest in the bishop of the diocese for the time being in which the same is situate; and the preservation and custody thereof shall belong to the trustees for the time being of the repair fund appointed under the provisions of the said last-mentioned Act, who shall have power to make such orders and regulations from time to time as may to them in that behalf seem proper.

Freehold of chapel, lodge, &c. erected under 9 & 10 Vict. c. 68. to vest in bishop, &c.

29. In the construction and for the purposes of this Act unless there be something in the subject or context repugnant to or inconsistent with such construction, the word "church" shall mean and include any consecrated church or chapel belonging to the Church of England; the word "bishop" shall be construed to comprehend archbishop, and the word "diocese" shall be construed to comprehend all places to which the jurisdiction of any bishop extends under and for the purposes of the Pluralities Act, 1838; the word "tithes" shall mean and include all commuted or uncommuted tithes, rentcharges in lieu of tithe, portions and parcels of tithes, and all moduses, compositions real and prescriptive, and customary payments; the words "Church Building Acts" shall mean and include all or any of the Acts mentioned

Interpretation of terms.

1 & 2 Vict. c. 106.

in the preamble of this Act; the words "parish or district" or "new parish or district" shall mean and include any distinct and separate parish, district parish, district chapelry, consolidated chapelry, or particular district, already or hereafter formed under the provisions of the Church Building Acts; the word "churchwarden" shall mean and include churchwarden and chapelwarden; and the words "body or person" shall mean and include any body politic, corporate, or collegiate, or any corporation aggregate or sole, as well as one individual.

Extent of Act.

30. This Act shall extend only to that part of the United Kingdom called England and Wales, and to the Isle of Man, and to the islands of Guernsey, Jersey, Alderney and Sark.

CHAPTER XCIX.

AN ACT to amend the Law of Evidence.^[1]

[7th August 1851.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Parties to be
admissible
witnesses.

2. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice, or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding may be brought or defended, shall, except as herein-after excepted, be competent and compellable to give evidence, either *vivâ voce* or by deposition, according to the practice of the court, on behalf of either or any of the parties to the said suit, action, or other proceeding.

Saving as to
criminal
proceedings.

3. But nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

[*S. 4 rep. 32 & 33 Vict. c. 68. s. 1.*]

Saving as to
7 Will. 4. &
1 Vict. c. 26.

5. Nothing herein contained shall repeal any provision contained in the Wills Act, 1837.

[¹ Short title; "The Evidence Act, 1851." See 55 & 56 Vict. c. 10.]

6. Whenever any action or other legal proceeding shall henceforth be pending in any of the superior courts of common law at Westminster or Dublin, . . . such court . . . may . . . on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped, in all cases in which previous to the passing of this Act a discovery might have been obtained by filing a bill or by any other proceeding in a court of equity at the instance of the party so making application as aforesaid to the said court.

Inspection, &c.
of documents
in common law
courts.

7. All proclamations, treaties, and other acts of state of any foreign state or of any British colony, and all judgments, decrees, orders, and other judicial proceedings of any court of justice in any foreign state or in any British colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such court, may be proved in any court of justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, either by examined copies or by copies authenticated as herein-after mentioned; that is to say if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the foreign state or British colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any foreign or colonial court, or an affidavit, pleading, or other legal document filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of the foreign or colonial court to which the original document belongs, or, in the event of such court having no seal, to be signed by the judge, or, if there be more than one judge, by any one of the judges of the said court; and such judge shall attach to his signature a statement in writing on the said copy that the court whereof he is a judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as herein-before respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the seal where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Proof of
foreign and
colonial acts of
state, judgments,
&c.

8. Every certificate of the qualification of an apothecary which shall purport to be under the common seal of the Society of the Art and Mystery of Apothecaries of the City of London shall be received in evidence in any court of justice, and before

Proof of
apothecaries'
certificates.

any person having by law or by consent of parties authority to hear, receive, and examine evidence, without any proof of the said seal or of the authenticity of the said certificate, and shall be deemed sufficient proof that the person named therein has been from the date of the said certificate duly qualified to practise as an apothecary in any part of England or Wales.

Proof of documents in Ireland.

9. Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in England or Wales without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice in Ireland, or before any person having in Ireland by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

Proof of documents in England and Wales.

10. Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in Ireland, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice in England or Wales, or before any person having in England or Wales by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

Proof of documents in the colonies.

11.^[1] Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in England or Wales or Ireland without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice of any of the British colonies, or before any person having in any of such colonies by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

[S. 12 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Proof of previous conviction by certified copy of record.

13. [*Recital.*] Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of

[¹ S. 11 is rep. as to British India, 38 & 39 Vict. c. 66. (S.I. R.)]

any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof; but it shall be sufficient that it be certified or purport to be certified under the hand of the clerk of the court or other officer having the custody of the records of the court where such conviction or acquittal took place, or by the deputy of such clerk or other officer, that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.

14. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statute exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in any court of justice, or before any person now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is intrusted, and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding fourpence for every folio of ninety words.

Examined or certified copies or extracts of public documents to be admissible in evidence.

15. If any officer authorized or required by this Act to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

Penalty for falsely certifying documents.

16. Every court, judge, justice, officer, commissioner, arbitrator, or other person, now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

Administration of oaths.

17. If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, . . . and whenever any such document shall have been admitted in evidence by virtue of this Act, the court or the person who shall have admitted the same may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some officer of the court or other proper person for such period and subject to such conditions as to the said court or person shall

Forgery of seal, stamp, or signature of documents, &c.

8 & 9 Vict.
c. 113, s. 4.

seem meet; and every person who shall be charged with committing any felony under this Act, or under the Act of the eighth and ninth years of her present Majesty, chapter one hundred and thirteen, may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed, in the county, district, or place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence laid and charged to have been committed, in any county, district, or place in which the principal offender may be tried.

Extent of Act.

18. This Act shall not extend to Scotland.

Interpretation
of "British
Colony."

19.^[1] The words "British Colony" as used in this Act shall apply. . . to the islands of Guernsey, Jersey, Alderney, Sark, and Man, and to all other possessions of the British Crown, wheresoever and whatsoever.

[S. 20 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

CHAPTER C.

AN ACT for further improving the Administration of Criminal Justice.^[2] [7th August 1851.]

[Preamble.]

Amendment of
variances in
indictments.

1. Whenever on the trial of any indictment for any felony or misdemeanor there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, in the name of any county, riding, division, city, borough, town corporate, parish, township, or place mentioned or described in any such indictment, or in the name or description of any person or persons, or body politic or corporate, therein stated or alleged to be the owner or owners of any property, real or personal, which shall form the subject of any offence charged therein, or in the name or description of any person or persons, body politic or corporate, therein stated or alleged to be injured or damaged or intended to be injured or damaged by the commission of such offence, or in the christian name or surname, or both christian name and surname, or other description whatsoever, of any person or persons whomsoever therein named or described, or in the name or description of any matter or thing whatsoever therein named or described, or in the ownership of any property named or described therein, it shall and may be lawful for the court before which the trial shall be had, if it shall consider such variance not material to the merits of the

[¹ S. 19 is rep. as to British India, 38 & 39 Vict. c. 66. (S.L.R.).]

[² Short title, "The Criminal Procedure Act, 1851." See 55 & 56 Vict. c. 10.]

case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended, according to the proof, by some officer of the court or other person, both in that part of the indictment where such variance occurs and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred; and in case such trial shall be had at nisi prius, the order for the amendment shall be endorsed on the postea, and returned together with the record and thereupon such papers, rolls, or other records of the court from which such record issued as it may be necessary to amend shall be amended accordingly by the proper officer; and in all other cases the order for the amendment shall either be endorsed on the indictment or shall be engrossed on parchment, and filed, together with the indictment, among the records of the court: Provided that in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such court to respite the recognizances of the prosecutor and witnesses, and of the defendant, and his surety or sureties, if any, accordingly; in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried, at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute or give evidence at the time and place to which such trial shall have been so postponed: Provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

2. Every verdict and judgment, which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

Verdicts and judgments valid after amendments.

3. If it shall become necessary at any time for any purpose whatsoever to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment was after such amendment was made, without taking any notice of the fact of such amendment having been made.

Records to be drawn up in amended form.

Description of instruments in indictments for the stealing or destroying, &c. thereof ;

5. In any indictment for . . . stealing, embezzling, destroying, or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same or the value thereof.

[*S. 6 rep. 24 & 25 Vict. c. 95. s. 1.*]

in indictments in other cases.

7. In all other cases wherever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

[*S. 8 rep. 24 & 25 Vict. c. 95. s. 1.*]

Persons tried for any felony or misdemeanor may be found guilty of an attempt to commit the same.

9. [*Recital.*] If on the trial of any person charged with any felony or misdemeanor it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same ; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the said indictment ; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

[*S. 10 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 11 rep. 24 & 25 Vict. c. 95. s. 1.*]

Person tried for misdemeanor not to be acquitted if the offence turn out to be felony.

12. If upon the trial of any person for any misdemeanor it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor ; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

[*Ss. 13-17 rep. 24 & 25 Vict. c. 95. s. 1.*]

Coin and bank notes may be described in indictments simply as money.

18. In every indictment in which it shall be necessary to make any averment as to any money or any note of the Bank of England or any other bank it shall be sufficient to describe such money or bank note simply as money, without specifying any particular coin or bank note ; and such allegation, so far as

regards the description of the property, shall be sustained by proof of any amount of coin or of any bank note, although the particular species of coin of which such amount was composed, or the particular nature of the bank note, shall not be proved, and, in cases of embezzlement and obtaining money or bank notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any bank note, or any portion of the value thereof, although such piece of coin or bank note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

19. [*Recital of 23 Geo. 2. c. 11. and Irish Act 31 Geo. 3. c. 18.*] Prosecution for perjury by direction of the court.

It shall and may be lawful for the judges or judge of any of the superior courts of common law or equity, or for any of her Majesty's justices or commissioners of assize, nisi prius, oyer and terminer, or gaol delivery, or for any justices of the peace, recorder or deputy recorder, chairman, or other judge, holding any general or quarter sessions of the peace, or for any commissioner of bankruptcy or insolvency, or for any judge or deputy judge of any county court or any court of record, or for any justices of the peace in special or petty sessions, or for any sheriff or his lawful deputy before whom any writ of inquiry or writ of trial from any of the superior courts shall be executed, in case it shall appear to him or them that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding made or taken before him or them, to direct such person to be prosecuted for such perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next session of oyer and terminer or gaol delivery for the county or other district within which such perjury was committed, unless such person shall enter into a recognizance, with one or more sufficient surety or sureties, conditioned for the appearance of such person at such next session of oyer and terminer or gaol delivery, and that he will then surrender and take his trial, and not depart the court without leave, and to require any person he or they may think fit to enter into a recognizance, conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid, and to give to the party so bound to prosecute a certificate of the same being directed, which certificate shall be given without any fee or charge, and shall be deemed sufficient proof of such prosecution having been directed as aforesaid; and upon the production thereof the costs of such prosecution shall and are hereby required to be allowed by the court before which any person shall be prosecuted or tried in pursuance of such direction as aforesaid, unless such last mentioned court shall specially otherwise direct; and when allowed by any such court in Ireland, such sum as shall be so allowed shall be

ordered by the said court to be paid to the prosecutor by the treasurer of the county in which such offence shall be alleged to have been committed, and the same shall be presented for, raised, and levied in the same manner as the expences of prosecutions for felonies are now presented for, raised, and levied in Ireland: Provided always, that no such direction or certificate shall be given in evidence upon any trial to be had against any person upon a prosecution so directed as aforesaid:

Statement of
the offence
in indictments
for perjury.

20. In every indictment for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, was taken, made, signed, or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the court or person before whom such offence was committed:

Statement of
the offence
in indictments
for subornation
of perjury, &c.

21. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly to take, make, sign, or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner herein-before mentioned, and then to allege that the defendant unlawfully, wilfully, and corruptly did cause and procure the said person the said offence, in manner and form aforesaid, to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things herein-before rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Certificate of
the trial at
which per-
jury was com-
mitted to
be sufficient
evidence of
such trial.

22. A certificate containing the substance and effect only (omitting the formal part) of the indictment and trial for any felony or misdemeanor, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where such indictment was tried, or by the deputy of such clerk or other officer, (for which certificate a fee of six shillings and eightpence and no more shall be demanded or taken,) shall upon the trial of any indictment for perjury or subornation of perjury be sufficient evidence of the trial of such indictment for

felony or misdemeanor, without proof of the signature or official character of the person appearing to have signed the same.

23. It shall not be necessary to state any venue in the body of any indictment; but the county, city, or other jurisdiction named in the margin thereof shall be taken to be the venue for all the facts stated in the body of such indictment; provided that in cases where local description is or hereafter shall be required, such local description shall be given in the body of the indictment; and provided also, that where an indictment for an offence committed in the county of any city or town corporate shall be preferred at the assizes of the adjoining county, such county of the city or town shall be deemed the venue, and may either be stated in the margin of the indictment, with or without the name of the county in which the offender is to be tried, or be stated in the body of the indictment by way of venue.

Venue in the margin of an indictment.

24. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute," instead of "against the form of the statutes," or vice versâ, nor for that any person mentioned in the indictment is designated by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil, is not of the essence of the offence.

What defects shall not vitiate an indictment.

25. Every objection to any indictment for any formal defect apparent on the face thereof shall be taken, by demurrer or motion to quash such indictment, before the jury shall be sworn, and not afterwards; and every court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the court or other person; and thereupon the trial shall proceed as if no such defect had appeared.

Formal defects in indictments.

[S. 26 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

27. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any session of the peace, session of oyer and terminer, or session of gaol delivery: Provided always, that if the court, upon the

Traversing or postponing trial of indictments.

application of the person so indicted or otherwise, shall be of opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, such court may adjourn the trial of such person to the next subsequent session, upon such terms as to bail or otherwise as to such court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly; in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session without entering into any fresh recognizance for that purpose.

Plea of autre-
fois convict
or autrefois
acquitt.

28. In any plea of autrefois convict or autrefois acquit it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment.

Punishment
for certain
indictable
misdemeanors.

29. Whenever any person shall be convicted of any one of the offences following, as an indictable misdemeanor; that is to say, any cheat or fraud punishable at common law; any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert, or defeat the course of public justice; any escape or rescue from lawful custody on a criminal charge; any public and indecent exposure of the person; . . . any public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition; it shall be lawful for the court to sentence the offender to be imprisoned for any term now warranted by law, and also to be kept to hard labour during the whole or any part of such term of imprisonment.

Interpretation.

30. In the construction of this Act the word "indictment" shall be understood to include "information," "inquisition," and "presentment," as well as indictment, and also any "plea," "replication," or other pleading, and any nisi prius record; and the terms "finding of the indictment" shall be understood to include "the taking of an inquisition," "the exhibiting of an information," and "the making a presentment"; . . . and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

[S. 31 *rep.* 38 & 39 *Vict. c. 66. (S.L.R.)*]

Extent of Act.

32. Nothing in this Act shall extend to Scotland.

CHAPTER CII.

AN ACT to amend the Acts relating to the Merchant Seamen's Fund, and to provide for winding up the said Fund, and for the better Management thereof in the meantime.

[8th August 1851.]

[*Preamble recites 20 Geo. 2. c. 38; 4 & 5 Will. 4. c. 52; 6 & 7 Will. 4. c. 15; and that it is expedient that the fund established under the provisions of those Acts and known as the Merchant Seamen's Fund should be brought to an end.*]

I.
Preliminary.

1. This Act may be cited as "The Seamen's Fund Winding-up Act, 1851." Short title.

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, if not inconsistent with the context or subject matter; (that is to say,) Interpretation of terms.

The expression "United Kingdom" shall be taken to mean the United Kingdom of Great Britain and Ireland: "United Kingdom":

* * * * *

The expression "President and Governors" shall mean the president and governors for the relief and support of sick, maimed, and disabled seamen, and of the widows and children of such as shall be killed, slain, or drowned in the Merchant Service, incorporated by the first of the said recited Acts: "President and Governors":

The expression "the fund" shall mean the Merchant Seamen's Fund: "the fund"

The word "ship" shall include every description of vessel employed on the high seas or on the coasts of the United Kingdom, or in any port or creek of the same, except boats exclusively employed in fishing on the coasts of the United Kingdom, or the islands of Guernsey, Jersey, Sark, Alderney, or Man, and except vessels employed exclusively in trading or going only from place to place within any river of the United Kingdom: "ship":

The expression "home-trade ship" shall include every ship included in the above definition, employed in trading or going within the following limits (that is to say), the coasts of the United Kingdom, the islands of Guernsey, Jersey, Sark, Alderney, and Man, and the continent of Europe between the river Elbe and Brest, inclusive: "home-trade ship":

The expression "foreign-going ship" shall include every "ship" included in the above definition, employed in trading or going beyond the limits aforesaid: "foreign-going ship":

The word "owner," when applied to a ship shall include all the persons, if more than one, to whom the ship belongs: "owner":

The word "master" shall include every person having command or charge of a ship: "master":

The word "seaman" shall include every person (except masters and apprentices duly indentured and registered) "seaman":

employed or engaged to serve in any capacity on board any ship.

[S. 3 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

III.
*Agency for
managing the
fund.*
—
Board of Trade
to superintend
the business of
winding up the
fund.

4. The Board of Trade shall undertake the general supervision of the business of winding up the fund in manner herein after mentioned; . . . and such board, may, for the purpose of carrying this Act into execution, appoint such officers, clerks, and servants as it may deem necessary, and make use of the General Register Office of Merchant Seamen, and may, if necessary for such purpose, increase the number of persons employed there, and may appoint additional remuneration to any persons now employed there upon whom additional duties are thrown by reason of this Act.

Saving as to
certain trustees.
20 Geo. 2.
c. 38.
4 & 5 Will. 4.
c. 52.

5. The president and governors and the several boards of trustees nominated under the provisions of the Act of the twentieth year of the reign of King George the Second, chapter thirty-eight, and of the Act of the fourth and fifth years of the reign of King William the Fourth, chapter fifty-two, or of either of such Acts, shall continue to exist, and to have succession, or to be from time to time nominated, as provided by the said Acts or either of them, for such time and to such extent as are consistent with the provisions of this Act, and necessary for carrying the same into effect; and the said president and governors and boards of trustees, (including the Guild and Brotherhood of the Master and Pilots Seamen of the Town and Port of Kingston-upon-Hull, and the Master, Wardens, and Commonalty of Merchant Venturers of the City of Bristol,) shall continue to have and exercise such of the powers granted to them respectively by the said Acts or either of them as are consistent with the provisions of this Act; but no trustees shall be appointed at any outport at which they have not been appointed before the passing of this Act.

Power of
Board of Trade
to suspend the
functions of
trustees.

6. If the said president and governors, or any of the boards of trustees at outports, fail to be duly chosen or constituted, or resign, or neglect or refuse to discharge their duties in respect of the fund, or to obey any of the provisions of this Act, or any regulations or orders lawfully issued in pursuance thereof, the Board of Trade may, by letter to be signed by one of the secretaries or assistant secretaries to such board, declare the functions of the said president and governors or of any such board of trustees (as the case may be) in respect of the fund to be suspended; and the said corporation or board of trustees shall thereupon cease, so long as such suspension continues, to have any rights or powers in respect thereof, and shall deliver all property and matters relating to the said fund to the Board of Trade, or as it directs; but no such suspension shall relieve the said president and governors, or any such board of trustees, from the obligation of making any payments, transfers, deliveries, returns, accounts, or explanations, which the Board of Trade is hereby authorized to require.

7. In any case in which the functions of the said president and governors or of any of the boards of trustees of outports are suspended as herein-before mentioned, the Board of Trade may, in its discretion, either take into its own hands the entire management of that portion of the fund with reference to which such functions are suspended, or, if there is a local marine board at the port willing to undertake the same, may commit the functions of the said president and governors or of such board of trustees, as the case may be, or any part of such functions, to such local marine board, and may at any subsequent time, if it thinks fit, resume the same or any part thereof.

Their function in that case may be undertaken by Board of Trade, or committed to local marine board.

8. At each port the shipping masters appointed under the Mercantile Marine Act, 1850, or such of the said shipping masters, if more than one, as the Board of Trade directs, shall be the receivers of such contributions to the fund from masters and seamen as may be payable under the provisions herein-after contained; and in the case of shipping masters appointed by a local marine board constituted under the said last-mentioned Act, such board may, with the sanction of the Board of Trade, and in other cases the Board of Trade may appoint any clerks or servants to assist the shipping masters in the discharge of their duties as receivers; and the Board of Trade may sanction such remuneration (if any) as it may deem necessary for the discharge of such duties.

Shipping masters appointed under 13 & 14 Vict. c. 93. to act as receivers, &c.

9. The several persons now employed by the said president and governors or by the said boards of trustees at outports in any duties other than the collection of the duties payable under the said Acts shall, unless the Board of Trade otherwise directs, be continued in such employment, so far as the same may be requisite for the purposes of this Act; but the Board of Trade may alter and regulate the salaries or remuneration to be paid to such persons, and, if it appears to such board that their services may be dispensed with, may dismiss them, and may commit the performance of their duties to the shipping masters above mentioned, or to any other persons whom it may appoint for the purpose, and may also, in any cases in which it appears to such board just and proper so to do, grant to any persons so dismissed, and also to any persons now employed in the collection of duties, a fair and moderate compensation for any loss they may sustain by reason of this Act.

Persons now employed may be continued; but Board of Trade may regulate remuneration and may dismiss them, &c.

10. No new officers or servants shall be appointed to assist in the administration of the fund, and no salaries or remuneration shall be granted or expences incurred, without the sanction of the Board of Trade.

New officers to be sanctioned by the Board of Trade.

11. The Board of Trade may require from all persons employed in the collection or distribution of the fund such security for the performance of their duties as it may consider expedient.

Security from officers.

12. All salaries, remunerations, and compensations hereby authorized shall be first submitted to the Treasury, for their approval.

Salaries, &c.

Payments
out of
general fund.

13. All salaries, remunerations, and wages payable to any persons employed in the administration of the fund, and all expences incurred in respect thereof, shall be defrayed out of the general fund herein-after mentioned; and all disbursements on account of the fund shall be made through the hands of the officers appointed for that purpose, and shall not be made by any other person or in any other manner.

IV.
Sources and
collection of
fund.

One general
fund to be
formed.

14. All monies and property, whether real or personal, forming part of or belonging to the Merchant Seamen's Fund or any branch thereof, as well capital stock, land, and securities, as yearly revenue and cash, and all monies arising from contributions or otherwise accruing to the said fund, shall form one general fund for the purpose of meeting the various expences hereby authorized.

[*S. 15 (requiring president and governors and boards of trustees at out-ports to apply general property belonging to the Fund as the Board of Trade directs) rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Property held
upon special
trusts to be
retained or
transferred to
new trustees,
as the case may
require.

16. If the president and governors or any such board of trustees as aforesaid of the fund have in their possession or power as trustees of the fund any monies or other property, either real or personal, held upon trusts for special or local purposes, distinct from the general purposes of the fund at the port, they shall, so long as they continue to act as administrators of the fund, apply such monies and property upon the trusts and for the purposes, upon and for which the same ought according to law to be applied, and, if they cease to act as administrators of the funds, shall, upon being required so to do by the Board of Trade, pay and transfer such last-mentioned monies and property to such new trustees as the Board of Trade appoints for the purpose; and whenever any subsequent appointment of new trustees of such monies and property is rendered necessary by death, resignation, or otherwise, the Board of Trade shall make the same; and such monies and property shall be paid over and transferred to the new trustees so appointed from time to time as occasion requires; and all such new trustees as aforesaid shall hold and administer all monies and property so paid and transferred upon the trusts and for the purposes last aforesaid.

Provision for
distinguishing
between gene-
ral property of
fund, and pro-
perty held upon
special trusts.

17. If in any case a question arises whether any monies and property in the possession or power of the said president and governors or trustees are, under the provisions herein contained, applicable to the general purposes of the fund or to such special or local purposes as aforesaid, and any arrangement for settling such question is agreed to by such president or governors or trustees, (as the case may be,) and is approved of by the Board of Trade as a fair and proper arrangement, such monies or property shall be applied in pursuance of such arrangement; and such application shall not be deemed to be a breach of trust.

President and
governors and

18. Immediately after the passing of this Act, or as soon as possible afterwards, the president and governors and the several

existing boards of trustees shall render to the Board of Trade such account as it requires of all the monies, stocks, securities, and property, whether real or personal, in their respective possession or power as trustees or managers of the fund, and shall distinguish such as are held for special or local purposes from such as are applicable for the general purposes of the fund, and shall specify the nature of such trusts, and shall, if required, deliver to the said commissioners all documents relating to any of such monies, stock, securities, and property; and, notwithstanding anything herein contained, the said president and governors and boards of trustees shall, until the completion of the transfers, payments, accounts, returns, and deliveries which are directed by this Act, or which the Board of Trade is hereby authorized to require, continue to have such powers as may be necessary in order to effect the same.

trustees to render accounts.

19. Every payment and transfer duly made as aforesaid shall be effectual in the law, and shall relieve the parties making the same from all liability in respect of any subsequent application of the monies and property so paid or transferred; but nothing herein contained shall operate to release any person or corporate body from any liability arising from any breach of trust previously committed by such person or body.

Payments, &c. to be valid, but not to operate as release from breach of trust.

20. No master or seaman shall be compelled to pay any duty or contribution to the fund; . . .

No compulsory contributions in future.

21. No master or seaman who has not contributed to the fund before the passing of this Act shall be allowed to contribute thereto, or to establish any claim for a pension or other relief for himself or for his wife or children.

No one who has not contributed to be allowed to contribute.

22. All masters and seamen, who before the passing of this Act have contributed to the fund, shall be allowed to continue to contribute thereto in manner herein-after mentioned, and shall in respect of their contributions be entitled to relief in the manner and subject to the conditions herein-after mentioned.

Those who have contributed to be allowed to continue.

[S. 23 (authorizing the Board of Trade to fix the time at which future contributions are to commence) rep. 38 & 39 Vict. c. 66. (S.L.R.)]

24. In the case of masters who discharge their crews before a shipping master under the provisions of the Mercantile Marine Act, 1850, and of seamen who are so discharged, such voluntary contributions shall be as follows; (that is to say,) every master shall pay two shillings and every seaman one shilling for each calendar month of service, and the same respective sums for any further number of days of service exceeding twenty, and one half of such respective sums for any further number of days of service exceeding ten and not exceeding twenty, and one third of such respective sums for any further number of days not exceeding ten (such further numbers of days to be reckoned as one month, one half month, and one third of a month respectively); and such service shall in the case of masters and seamen respectively be reckoned from the day of their respectively

Rate and mode of voluntary contribution for men discharged before a shipping master according to 13 & 14 Vict. c. 93.

signing the agreement to the day of their discharge inclusive; and such voluntary contributions shall be paid to such shipping master as aforesaid at the time of the discharge.

Rate and mode of voluntary contribution for men not discharged before a shipping master.

25. In the case of masters and seamen who do not attend before a shipping master for the purpose of discharge, such voluntary contributions as aforesaid shall be paid after the rate and in the manner following; that is to say, sixteen shillings shall be deemed to be the yearly contribution for a master and eight shillings the yearly contribution for a seaman, and so in proportion for any shorter period; and such sums shall be deemed to be payable quarterly in advance; and each master and seaman who wishes to contribute shall from time to time attend before some shipping master at stated periods to be appointed for the purpose by the Board of Trade, and shall then pay to him such proportion of his yearly contribution as he may think fit, so nevertheless that each such payment made at one time be either two shillings or some multiple of two shillings.

Provision for the case of men entering the Navy.

26. In the case of seamen who enter the Royal Navy and who desire to continue their contributions to the fund, such contributions shall be according to the rate herein-before fixed for the case of seamen who are not discharged before a shipping master, and shall be paid in such manner as the Board of Trade directs.

VI.
Objects of relief.

[*Ss. 27, 28 rep. 16 & 17 Vict. c. 131. s. 26. Ss. 29-38 rep. 17 & 18 Vict. c. 120. s. 4. S. 39 (authorizing the Board of Trade to fix a time at which grants of pensions were to commence) and s. 40 rep. 38 & 39 Vict. c. 66. (S.L.R.) S. 41 is local and personal.*]

No seamen to earn pensions unless they contribute for five years.

42. No pensions shall be granted, except to masters and seamen, or to the widows and children of masters and seamen, who have contributed to the fund for an aggregate period of sixty months . . .

Failure to contribute for three years to be an abandonment of right to relief.

43.[¹] Any seaman who . . . before the termination of his last service at sea, ceases altogether for a continuous period of three years to pay his contribution to the fund, shall forfeit all claim to any relief for himself, his widow and children.

Persons who are to be entitled to pensions.

44. Subject as herein-before provided, such pensions and allowances as herein-after mentioned may be granted to any master or seaman who is rendered incapable of service by sickness, wounds, or other accidental misfortunes, or who becomes decrepit or worn out by age; and also to the widow and children of any master or seaman who is killed or drowned in the merchant service; and also to the widow and children of any master or seaman who has contributed for twenty-one years to the fund, or who is at the time of his death receiving or entitled to receive a pension; provided, in the case of such last-mentioned widow, that she was married to such master or seaman before he became

[¹ S. 43 is amended, and as amended, applied to masters, 43 & 44 Vict. c. 22 s. 3.]

entitled to relief, and, in the case of such last-mentioned children, that they are under the age of fourteen years, or are from infirmity incapable of getting a livelihood.

45. . . . all grants of pensions . . . shall be in conformity with such scale as the Board of Trade shall issue for that purpose. Scale of pensions.

46. The rate of pensions for masters, and for the widows and children of masters, shall be twice the amount of pensions for seamen, and for the widows and children of seamen respectively. Rate of masters' pensions.

47. Provided, that in any case or class of cases in which it appears to the Board of Trade desirable so to do, such Board may commute any pension upon such terms as it thinks fit, and may also, as regards relief to widows and children, substitute gratuities for annual pensions, such gratuities to bear a fair proportion to the annual pension which would otherwise have been granted. Commutation of pensions, and gratuities to widows.

[S. 48 *rep.* 50 & 51 *Vict. c.* 62. s. 6.]

49. All acts done by any master or seaman for the purpose of charging or alienating the whole or any part of his pension shall be absolutely null and void. Pensions to be inalienable.

50. Subject to the provisions herein-before contained, the Board of Trade may determine and regulate the principles and conditions upon which and the manner in which pensions or other relief are to be granted under this Act; . . . Board of Trade may regulate the conditions of relief.

[S. 51 *rep.* 16 & 17 *Vict. c.* 131. s. 26.]

52. In London and in the outports under the management of the said president and governors, such president and governors, unless suspended as herein-before mentioned, and their officers, shall undertake the duty of ascertaining the persons who, under the provisions herein-before contained, or any regulations made in pursuance thereof, are entitled to relief; and in outports having boards of trustees, such trustees and their officers, unless suspended as aforesaid, shall undertake such duty; and in case of any such suspension as aforesaid the local marine board of the port, if appointed to act in administering the fund under the powers herein-before contained, or such persons as the Board of Trade may appoint for that purpose, shall undertake such duty; and if in any case it appears to the Board of Trade that any pension or other relief is granted or refused in a manner inconsistent with the provisions of this Act, or with any regulations issued by virtue of powers herein contained, the Board of Trade may disallow such grant or refusal, and either withhold, grant, or alter the relief, as the case may require.

VII.
Mode of distribution.

President and governors and trustees, unless suspended, to distribute relief.

53. The Board of Trade may make regulations as to the times and places at which and the manner in which applications for pensions or other relief are to be made, and as to the evidence to be required, and may also, subject to the express provisions herein contained, make regulations as to the time, place, and manner of distributing the same. Regulations as to applications for pensions, and distribution thereof.

Certificates,
&c. to be
exempt from
stamp duty and
consuls' fees.

54. All certificates, receipts, or other documents used by or under the directions of the Board of Trade in carrying the provisions of this Act into execution, shall be exempt from stamp duty; and any certificates or other documents, which may be required from any consul or vice consul for the purpose of proving claims to pensions or other relief under this Act, shall be given by him without fee.

Punishment
for forgery and
personation.

55. Every person who, for the purpose of obtaining, either for himself or for another, any pension, payment, or relief from the fund, fraudulently forges or alters, or procures to be forged or altered, or assists in forging or altering, any certificate or other document purporting to show or assist in showing a right to such pension, payment, or relief, and every person who for the purpose aforesaid fraudulently makes use of any forged or altered certificate or other such document as aforesaid, or any certificate or other such document as aforesaid not belonging to him, or who for the purpose aforesaid gives or makes or procures to be given or made, or assists in giving or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with transportation for seven years, or may be summarily prosecuted before two or more justices, or in Scotland before two or more justices or the sheriff, and punished upon conviction by imprisonment for a person not exceeding six months, with or without hard labour.

[S. 56 *rep.* 16 & 17 *Vict. c.* 131. s. 26.]

VIII.
*Accounts
and returns.*

Accountant for
the purposes of
this Act.

57. The person appointed for the time being to act as accountant to the Board of Trade in carrying into effect the provisions of this Act shall be the person who is to render the accounts of that board under this Act to the commissioners of audit, or other persons undertaking the audit thereof.

Accounts and
returns.

58. The president and governors and all boards of trustees or other persons engaged in the administration of the fund shall keep their accounts in such manner as the Board of Trade directs, and shall also from time to time give to the Board of Trade such returns and accounts, and explanations in respect of all matters relating to the fund, whether past, present, or future as it may require.

Annual report.

59. On or before the first day of March in every year, the Board of Trade shall cause to be made out a report for the past year, in such form as they may think fit, containing the following particulars:

1. The total amount of receipts and disbursements for the year under their several heads:
2. The total amount of money in hand at the end of the preceding year, including the balance at the Bank of England, and any sums which may be outstanding in the hands of receivers:

3. The total amount of the capital belonging to the fund, with the several investments thereof, distinguishing such capital as is still outstanding, and such debts and investments as are considered bad or doubtful :
4. The number of pensioners, distinguishing between men, women, and children, and between different scales of pension, and the total amount of pensions in each class :
5. The number and amount of the whole of the pensions, and of each class of pensions, granted in the year :
6. The number and amount of the whole of the pensions, and of each class of pensions, expired in the year :
7. The amount of salaries and expences of management :
8. A statement of the money and securities applicable to private trusts, with a general account of the nature of the trusts, and of the income and expenditure in respect thereof :

And such other particulars as the Board of Trade may deem expedient :

And such report shall be laid before each House of Parliament in the month of March in every year, if Parliament is then sitting, or, if not, within one month after the next meeting thereof.

60. All notices published in the London Gazette, and purporting to be notices or copies of any orders or regulations issued by the Board of Trade in pursuance of this Act, shall be taken as evidence of such orders or regulations, without further proof.

IX.
*Legal
proceedings.*

Orders, &c.
published in
Gazette to be
evidence.

[S. 61 *rep.* 17 & 18 *Vict.* c. 120. s. 4.]

CHAPTER CIV.

AN ACT to facilitate the Management and Improvement of Episcopal and Capitular Estates in England.^[1]

[8th August 1851.]

WHEREAS it would tend to the improvement of episcopal and capitular estates in England, without prejudice to the interests of persons holding leases granted thereof, if facilities were given for such dealings as herein-after mentioned between ecclesiastical corporations and their lessees :

[¹ Short title, "The Episcopal and Capitular Estates Act, 1851." See 55 & 56 *Vict.* c. 10. This Act, which by s. 12 was of temporary duration, has been continued by the *Expiring Laws Continuance Acts.*]

Power to ecclesiastical corporations to sell, enfranchise, or exchange church lands held under leases, &c. or to purchase the interests of their lessees or copyholders.

1. It shall be lawful for any ecclesiastical corporation, sole or aggregate, with the approval in writing of the Church Estates Commissioners, who shall pay due regard to the just and reasonable claims of the present holders of lands under lease or otherwise arising from the long continued practice of renewal, to sell to any lessee under any lease granted by such corporation the reversion, estate, and interest of such corporation in all or any of the lands comprised in such lease, for such consideration, upon such terms, and in such manner, as such corporation and lessee may, with such approval as aforesaid, think fit; and it shall be lawful for any such ecclesiastical corporation, with such approval as aforesaid, to enfranchise any copyhold or customary land held of any manor belonging to such corporation, or to exchange with any lessee under any lease granted by such corporation all or any of the lands therein comprised, or the reversion, estate, and interest therein of such corporation, for any other lands, whether of freehold, copyhold, or customary tenure, or for the estate and interest of such lessee in any other lands belonging to such corporation, and upon any such exchange either to receive or pay any money by way of equality of exchange; and it shall also be lawful for any such corporation, with such approval as aforesaid, to purchase the estate and interest of any such lessee in any lands belonging to such corporation, or of any holder of copyhold or customary land of any such manor:

Provision for apportionment of rent on surrender of part of lands comprised in any lease.

2. Upon the surrender to any ecclesiastical corporation of the estate or interest of any lessee in a part only of the lands comprised in any lease, it shall be lawful for the Church Estates Commissioners, by a memorandum in writing under the hands of such commissioners, which may be endorsed on such lease, to apportion the rent reserved thereby, and declare what part thereof shall continue payable thereunder; and thereupon such apportioned part of the rent shall be payable as if the same had been the rent originally reserved in respect of the lands not surrendered; and where the rent originally reserved was an ancient and accustomed rent, the part so continuing payable shall be deemed and taken to be the ancient and accustomed rent for the lands not surrendered; and the reservations, covenants, and agreements contained in such lease, and the powers and authorities of any such ecclesiastical corporation, so far as the same shall be applicable to the lands not surrendered, shall remain in full force as if such surrender had not been made.

The interests acquired by lessees to be subject to the equities and bound by the covenants with sub-lessees, &c. to which their leases may be subject.

3. The interest in lands acquired by any lessee under this Act shall be deemed in equity to be acquired in respect of his interest under his lease, and shall be subject to the same trusts, charges, and incumbrances as his lease or any lease obtained on a renewal thereof would have been subject to, so far as the different natures of the property will admit; and all covenants and agreements which would have entitled any sub-lessees or others to derivative interests upon renewals of such lease upon contribution to the fines and other payments upon renewal or otherwise, shall give

the like rights, so far as the nature of the property will admit, to proportionate shares and benefits out of and in respect of any interest in lands which may be acquired under this Act by the lessee who may be subject to such covenants or agreements, upon a proportionate contribution to or in respect of the costs, payments, or consideration paid or given for the interest so acquired by such lessee.

4. If any lands held under lease from an ecclesiastical corporation shall have been sub-let with a covenant on the part of the original lease to renew the under-lease upon any renewal of the original lease, the interest of the lessee in such lands shall not be taken by way of purchase under this Act by any ecclesiastical corporation without the consent in writing of such sub-lessee: Provided always, that such ecclesiastical corporation shall not be prevented from making such purchase, nor shall their title to any such lands be affected in respect of the existence of any such under-lease, unless the said corporation shall have had direct notice thereof in writing; but the sub-lessee shall, in cases where a sale shall have been made without such notice, be entitled to recover such damages for the loss of the benefit of such covenant against the party bound by the covenant for the loss to be sustained by him as he would be entitled to in respect of its non-performance on a renewal by the original lessee.

Leaseholders interest not to be purchased without consent of sub-lessees, who have covenants of renewal.

5. Any conveyance, assignment, or other assurance of lands to be made to or by any ecclesiastical corporation, upon any sale, enfranchisement, exchange, or purchase under this Act, shall be made in such form and manner as the Church Estates Commissioners shall from time to time direct, and shall be confirmed by the Church Estates Commissioners, and, being so confirmed, shall be valid and effectual, and shall not require any other confirmation (as respects the execution of the same by any such ecclesiastical corporation); and no purchaser or other person deriving title under any such assurance so confirmed as aforesaid upon any sale, enfranchisement, or exchange by an ecclesiastical corporation, shall be concerned to inquire into the propriety of such sale, enfranchisement, or exchange, or the sufficiency of the consideration for the same.

Confirmation of conveyances by Church Estates Commissioners sufficient.

6. All monies, which on any sale, exchange, or enfranchisement under this Act, shall be received by or become payable to or for the benefit of any ecclesiastical corporation, shall be paid into the Bank of England to such account as the Church Estates Commissioners shall from time to time appoint in that behalf; or such monies, with the approbation of the Church Estates Commissioners, shall remain at interest as a charge by way of mortgage upon the premises enfranchised, at such a rate, for such a period, and upon such terms as the parties, with such approbation as aforesaid, may agree upon; and the receipt of the Church Estates Commissioners shall be an effectual discharge for any money therein expressed to be received; and all monies so paid into the Bank of England shall be from time to time

Monies to arise from sale, exchange, or enfranchisement, to be laid out as hereinbefore authorized, or in the purchase of other lands, &c.

applied in payment for equality of exchange as aforesaid, or in such purchases as herein-before authorized, or shall be laid out by such corporation, with such approval as aforesaid, in the purchase of other lands, to be conveyed to the use or for the benefit of such corporation; and the monies from time to time remaining unapplied for the purposes aforesaid shall be invested by and in the names of the Church Estates Commissioners in the purchase of government stocks, funds, or securities; and such Church Estates Commissioners may sell and dispose of the same for the purposes of this Act as occasion may require; and the interest, dividends, and annual proceeds of such monies, stocks, funds, and securities, shall be paid to the corporation which would for the time being have been entitled to the rents and profits of the lands sold, enfranchised, or exchanged, subject to the provisions herein contained.

Other monies applicable to purchase of lands for use of an ecclesiastical corporation may be applied as herein authorized.

7. All other monies, stocks, funds, and securities for the time being subject to be invested in the purchase of lands to be conveyed to the use or for the benefit of any ecclesiastical corporation, may, with such approval as herein mentioned, be applied in or towards the purchase of the estates or interests of lessees in any lands belonging to such corporation, or of the estates or interests of any holders of copyhold or customary land of any manor belonging to any such corporation, or in or towards payments for equality of exchange under this Act.

Provision in case of increase or deficiency of income in consequence of sales, &c.

8. If it appear to the Church Estates Commissioners that by means of any sale, enfranchisement, exchange, purchase, or investment under the powers of this Act, the income which any person, being an ecclesiastical corporation sole, or member of an ecclesiastical corporation aggregate, might have received if this Act had not been passed, has been or may be increased, it shall be lawful for the Church Estates Commissioners to require, in respect of such increase, payment to be made, either immediately or upon any contingency, to the Church Estates Commissioners, by or on account of the person receiving such increase during his incumbency, of such annual or other sum as the Church Estates Commissioners may, under the circumstances of each case, think proper, and to enforce such payment by an action of debt to be brought in the name of the Ecclesiastical Commissioners; and the Church Estates Commissioners may, on giving their approval under this Act to any sale, enfranchisement, exchange, purchase, or investment, make such payment a condition of such approval, but not so as to affect the title under such sale, enfranchisement, exchange, or purchase, and may, for securing such payment, require any security, by way of charge or otherwise, as to them may seem proper, and the payments to be so made shall be dealt with by such Church Estates Commissioners as part of the common fund of the said Ecclesiastical Commissioners; and where it appears to the Church Estates Commissioners that by means of any such sale, enfranchisement, exchange, purchase, or investment, the income which any such person might have received has been diminished such commis-

sioners shall, out of any monies received by them under this Act on behalf of such corporation, or the investments thereof, pay to such person from time to time such annual or other sum as to such commissioners may appear sufficient to make up the deficiency caused by such diminution.

9. No lease of any lands purchased or acquired, or in which the estate or interest of a lessee, or of a holder of copyhold or customary land, is purchased or acquired by any ecclesiastical corporation under this Act, shall, except as herein-after provided, be granted by such ecclesiastical corporation, otherwise than from year to year, or for a term of years in possession not exceeding fourteen years, at the best annual rent that can be reasonably gotten, without fine, the lessee not to be made punishable for waste or exempted from liability in respect of waste: Provided always, that it shall be lawful for such ecclesiastical corporation, with the approval of the Church Estates Commissioners, from time to time to grant mining or building leases of any such lands, for such considerations, upon such terms, and generally in such manner, as such commissioners, under the circumstances of each case, may think fit; and it shall be lawful for such commissioners to require that any portion of the rent received on any such lease shall be invested and disposed of in like manner as herein provided with respect to monies to be received on the sale of any lands by any such corporation.

How leases of lands acquired by any ecclesiastical corporation under this Act may be made.

10. The Church Estates Commissioners shall from time to time give to any one of her Majesty's Principal Secretaries of State such information respecting their proceedings or any part thereof as the said Principal Secretary of State shall require, and shall on or before the first day of March in every year send to one of the Principal Secretaries of State a general report of their proceedings under this Act, together with a schedule of all applications for enfranchisement or purchase of interests of lessees, specifying the terms proposed, the terms on which such enfranchisement or purchase shall have been effected, and, if refused, the grounds of such refusal; and every year such general reports shall be laid before both Houses of Parliament within six weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or, if Parliament be not sitting, then within six weeks after the next meeting thereof.

General report of proceedings of Church Estates Commissioners to be sent annually to Secretary of State, &c.

11. In the construction of this Act, unless such meaning be repugnant to the context, the following words and expressions shall have the meanings hereby assigned to them respectively; (that is to say,)

Interpretation of terms.

The expression "ecclesiastical corporation" shall include every archbishop, bishop, dean and chapter, dean, archdeacon, canon, prebendary, and other dignitary or officer of any cathedral or collegiate church in England and Wales, and every minor ecclesiastical corporation in any such cathedral or collegiate church, but shall not include the dean and canons of the cathedral church of Christ in Oxford, or any

"Ecclesiastical corporation"

- college or hospital, or any parson, vicar, or perpetual curate or other incumbent of any benefice :
- “ Lease ” : The word “ lease ” shall include grant by copy of court roll :
- “ Lands ” : The word “ lands ” shall include tithes and tithe rentcharges, and other tenements and hereditaments, corporeal and incorporeal (except advowsons) :
- “ Lessee, ” The word “ lessee ” shall include any person or body corporate in whom any subsisting lease or grant, or the term or estate thereby granted in the whole or in any part of the lands comprised in such lease, is, either by the original grant or demise, or by assignment, devise, or operation of law, for the time being vested.

[*S. 12 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

CHAPTER CV.

AN ACT to make certain Amendments in the Laws for the Relief of the Poor.^[1] [8th August 1851.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.) Ss. 2, 3 rep. 56 & 57 Vict. c. 73. s. 89.*]

Guardians with the consent of the Poor Law Board may subscribe to hospital or infirmary.

4. [*Recital.*] The guardians of any union or parish may, with the consent of the Poor Law Board, pay out of the common fund of such union, or, in the case of a parish, out of the funds in the hands of such guardians, any sum of money as an annual subscription towards the support and maintenance of any public hospital or infirmary for the reception of sick, diseased, disabled, or wounded persons, or of persons suffering from any permanent or natural infirmity.

Guardians may reimburse officers for damage to their property in certain cases.

5. The guardians may, where they think fit, pay to or reimburse any of their officers the expence necessarily incurred in repairing or restoring property belonging to such officer which may have been unlawfully, wilfully, and maliciously damaged, injured, or destroyed by any person applying or having applied for relief, and such costs and expences incurred in the prosecution of the offender as may not be allowed by the court before which the prosecution or trial shall take place.

Poor children of a union or parish may, with consent of Poor Law Board, be received into a

6. Where in any union or parish there shall be a workhouse or building having adequate provision for the reception, maintenance, and education of poor children, and there shall be more accommodation therein at any time than the guardians of such union or parish shall require for the poor children of their own

[¹ Short title, “ The Poor Law Amendment Act, 1851. ” See 55 & 56 Vict. c. 10.]

union or parish, such guardians may, with the consent of the Poor Law Board, contract with the guardians of any other union or parish, . . . for the reception, maintenance, and instruction therein of any poor children under the age of sixteen years chargeable to such other union or parish, or to any parish in such other union, being orphans or deserted by their parents, or whose parents or surviving parent shall consent; and such last-mentioned children, while at such workhouse or other building, shall be maintained and instructed in the same manner in all respects as the children of the union or parish to which such workhouse or other building shall belong, and shall be subject to the control and management of the guardians of such union or parish, or their officers, in like manner as if such children were chargeable to such union or parish: Provided always, that the abiding of any such child in any such workhouse or building shall in all other respects be attended with the same legal consequences as if such workhouse or building had been situated within the union or parish from which such child shall have been sent.

workhouse, &c. belonging to another union or parish where there is surplus accommodation.

[S. 7 *rep.* 32 & 33 *Vict.* c. 45. s. 6.]

8. Where the execution of any order of justices for the removal of a pauper shall have been or shall be suspended, the overseers of the parish to which the removal is thereby ordered to be made may from time to time during the continuance of the suspension, if they think fit, pay to the overseers of the parish obtaining such order the costs and expences incurred in the maintenance and relief of the poor person mentioned in such order, either directly or through the guardians of the union comprising either or both of such parishes, and shall have credit for every such payment in the charges allowed by any order of justices subsequently made.

Payments for maintenance, &c. during suspension of orders for removal.

9. Where the overseer or any other officer of any parish, or any officer of a union, shall neglect to pay in due course of law money lawfully payable by him as such overseer or officer to the treasurer of such union or parish, residing or having his place of business in a county, district, or place different from that in which such overseer or officer shall reside at the time of any such default, and by reason of such neglect such overseer or officer shall be liable to be summoned before a justice or justices, any justice or justices of either county, district, or place shall have jurisdiction to hear and determine the complaint.

What justices to determine complaints as to nonpayment of money by overseers, &c.

10. It shall be lawful and sufficient to send any notice of appeal against an order of removal, or statement of grounds of appeal against such order, by post or otherwise, in like manner as a copy of an order of removal and statement of grounds of removal may now be sent by law.

Notice of appeal, &c. may be sent by post.

11. And whereas by the Poor Removal Act, 1846, section six, any officer of a parish or union wrongfully causing or procuring any poor person to be removed or conveyed or to depart from a

9 & 10 *Vict.* c. 66. s. 6.

Explanation of the terms "officer" and "justices" in recited section; and application of the penalty thereby imposed.

Guardians of two unions, &c. may refer questions to Poor Law Board.

9 & 10 Vict. c. 66, s. 7.

Delivery at workhouse of statement of charges for maintenance of paupers to be deemed delivery to overseers, &c.

Poor Law Board may dissolve any asylum district formed under 7 & 8 Vict. c. 101;

parish under the circumstances therein described is rendered punishable upon conviction before two justices: And whereas it is expedient to remove doubts which have arisen thereon: Be it enacted, that the term "officer" shall include any overseer, and that the term "justices" shall apply to the justices of the county or other jurisdiction in which the parish may be situated from or to which such poor person shall be removed; and that the penalty imposed by the Act shall be paid to the overseers of the parish to which the poor person shall become chargeable in consequence of such unlawful removal, conveyance, or departure, to be applied in aid of the poor rate of such last-mentioned parish.

12. The guardians of any two unions or parishes, or the guardians of a union and the guardians of a parish, or the guardians of a union or parish and the overseers of any parish, or the overseers of any two parishes, between whom any question affecting the settlement, removal, or chargeability of any poor person shall arise, may, if they think fit so to do, by agreement in writing, executed in respect of any guardians by sealing with their common seal, and in respect of overseers by the signatures of a majority of them, submit such question to the Poor Law Board for their decision; and the said board may, if they see fit, entertain such question, and by an order under their seal determine the same; and every such order shall be in all courts and for all purposes final and conclusive, between the parties submitting such question, as to the question therein determined.

13. And whereas by the Poor Removal Act, 1846, section seven, it is enacted, that the delivery of any pauper under any warrant of removal directed to the overseers of any parish at the workhouse of such parish, or of any union to which such parish belongs, to any officer of such workhouse, shall be deemed a delivery of such pauper to the overseers of such parish: Be it enacted, that the delivery of a written statement of the charges for the maintenance of any pauper delivered under any order or warrant of removal directed to the overseers of any parish, at the workhouse of such parish, or of any union to which such parish belongs, to any officer of such workhouse, at the time of the delivery of such pauper, shall be deemed a delivery of such statement to the overseers of such parish, and shall be deemed a sufficient demand thereof in any proceedings for the recovery of such charges.

14. The Poor Law Board may, if they see fit, upon the application or with the consent of the acting members of the board of management, at any time, by an order under their seal, dissolve any combination of unions or parishes, or unions and parishes, formed under the Poor Law Amendment Act, 1844, into districts for the purpose of providing and managing asylums for the temporary relief and setting to work therein of destitute houseless poor, and, prior to issuing any such order of dissolution, may empower, by their order, the board of management of such district to pay and apply any funds in their possession in discharge

of any liabilities then outstanding against such board, and to sell and dispose of any land, buildings, or other property belonging to them, and to apply the produce of the same to the like purpose; and any surplus that may remain after satisfying all liabilities shall be returned to the several unions and parishes in proportion to their original contributions.

and may order sale of its property, &c.

15. The conveyance of such property by the acting members of the said board of management of any such district, when approved and sealed by the Poor Law Board, shall be deemed valid, notwithstanding any defect which may exist in the number required to constitute such board of management.

Conveyance of such property.

16. And whereas provision is made in the Poor Law Amendment Act, 1844, for the combination of unions and parishes into school districts; and authority is given to the district board, subject to the order of the Poor Law Board, to borrow or raise such sum or sums of money as may be necessary for the purpose of purchasing any site, or purchasing, hiring, or building, and of fitting up and furnishing, a building or buildings for such school; and it is further provided that the principal sum or sums to be raised for the purpose of providing such building or buildings, and charged on any union or parish not included in a union, shall in no case exceed one fifth of the average annual amount of the aggregate expenditure relating to the relief of the poor within any union, or of the like expenditure within any such parish, for three years ending the twenty-fifth day of march next preceding the raising of the money: And whereas by the Poor Law Amendment Act, 1850, section three, with reference to school districts situated within the Metropolitan Police District, the cost of the site of any such school may be borrowed over and above the amount so limited as aforesaid: And whereas it is expedient with respect to such last-mentioned school districts that the limit of expenditure fixed by the Poor Law Amendment Act, 1844, should be enlarged: Be it therefore enacted, that in respect of any school district situated within the said Metropolitan Police District such limit shall be enlarged from one-fifth to one-third.

7 & 8 Vict. c. 101. ss. 40, 44.

13 & 14 Vict. c. 101. s. 3.

7 & 8 Vict. c. 101. Enlargement of limit of expenditure for school buildings in Metropolitan Police District.

17. The board of management of any school district may in like manner, and subject to the like order, rules, and regulations of the Poor Law Board, as in the case of the guardians of a union, exchange, demise, sell, or otherwise dispose of any land belonging to the said district, and apply the rents or produce of any such exchange, sale, or disposition for the benefit of the said district in such manner as the said Poor Law Board shall direct.

Provision for sale, &c. of property of school districts.

18. The provision in the Poor Law Amendment Act, 1850, section nine, relative to assaults upon certain poor law officers in the execution of their duties, or upon persons acting in their aid, shall extend to an assault upon any person included under the word "officer" in the Poor Law Amendment Act, 1834, or upon any other person acting in his aid.

Assaults on officers. 13 & 14 Vict. c. 101. s. 9. 1 & 5 W. 4. c. 76.

Construction of
terms.
4 & 5 Will. 4.
c. 76.

19. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the Statutes explaining and extending it; and all the provisions of the said last-mentioned Act and of the said Statutes not repealed shall extend to this Act, except where any provision would be inconsistent with anything herein contained.

Extent of Act.

20. This Act shall extend only to England and Wales.

[*Sched. rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

15 & 16 VICTORIA. A.D. 1852.

CHAPTER V.

AN ACT further to explain and amend the Acts for the Regulation of Municipal Corporations in England and Wales, and in Ireland.^[1] [20th April 1852.]

[*Preamble recites 5 & 6 Will. 4. c. 76. s. 28; 3 & 4 Vict. c. 108. s. 58, which enacts that no person shall be qualified to be elected or to be a councillor, alderman, or municipal commissioner of any borough, while he has directly or indirectly any share or interest in any contract or employment with, by, or on behalf of any council, commissioners, or charitable trustees of such borough.*]

Proprietors of
newspapers not
to be deemed
contractors by
reason of ad-
vertisements.

1. No person shall be deemed to have an interest in a contract or employment with, by, or on behalf of such council, commissioners, or trustees, by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of any such borough, council, commissioners, or trustees may hereafter be inserted.

[*Ss. 2-5 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Proprietors of
newspapers not
disqualified for
municipal
offices by
reason of ad-
vertisements,
&c.

6. No municipal commissioner, councillor, alderman, or mayor, in any municipal corporation within the provisions of either of the said Acts, shall be deemed to be disqualified to be elected or to be such municipal commissioner, councillor, alderman, or mayor, by reason only of his having any share or interest in any newspaper in which any such advertisement as aforesaid may be inserted; but all elections of municipal commissioners, councillors, aldermen, or mayors as aforesaid shall be deemed and taken to be valid notwithstanding any such share or interest as aforesaid.

^[1] Short title, "The Municipal Corporations Act, 1852." See 55 & 56 Vict. c. 10. This Act is rep. as to boroughs in England and Wales, 45 & 46 Vict. c. 50. s. 5.]

CHAPTER XII.

AN ACT to extend and explain the International Copyright Acts; and to explain the Acts relating to Copyright in Engravings.^[1] [28th May 1852.]

[*Preamble recites 7 & 8 Vict. c. 12 herein-after called "The International Copyright Act."*]

[*Ss. 1-5 rep. 49 & 50 Vict. c. 33. s. 12. Ss. 4, 5 provided for the prevention, by order in council, of representation within the British dominions of unauthorized translations of dramatic pieces first publicly represented in a foreign country named in the order.*]

6.^[2] Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country. Saving as to imitations of dramatic pieces, &c.

7. Notwithstanding anything in the said International Copyright Act or in this Act contained, any article of political discussion which has been published in any newspaper or periodical in a foreign country, may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country; and any article relating to any other subject which has been so published as aforesaid may, if the source from which the same is taken be acknowledged, be republished or translated in like manner, unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall, . . . receive the same protection as is by virtue of the International Copyright Act or this Act extended to books. Republishing or translation of articles in foreign newspapers, &c. relating to politics.

[*S. 8 rep. 49 & 50 Vict. c. 33. s. 12.*]

9. All copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this Act, or of any order in council made in pursuance of such Acts or of any order in council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece the publication or public representation in the British dominions of translations whereof, Pirated copies prohibited to be imported, except with consent of proprietor.

[¹ Short title, "The International Copyright Act, 1852." See 55 & 56 Vict. c. 10.]

[² An order in council may direct that this section shall not apply to dramatic pieces to which protection is by the order extended, 38 & 39 Vict. c. 12. s. 1.]

not authorized as in this Act mentioned, shall for the time being be prevented under any order in council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing; and the provision of the Copyright Act, 1842, for the forfeiture, seizure, and destruction of any printed book first published in the United Kingdom wherein there shall be copyright, and reprinted in any country out of the British dominions, and imported into any part of the British dominions by any person not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations, the importation whereof into any part of the British dominions is prohibited under this Act.

5 & 6 Vict.
c. 45.

Foregoing provisions to be incorporated with 7 & 8 Vict. c. 12.

10. The provisions herein-before contained shall be incorporated with the International Copyright Act, and shall be read and construed therewith as one Act.

[S. 11 *rep.* 49 & 50 *Vict. c.* 33. s. 12. Ss. 12, 13 *rep.* 38 & 39 *Vict. c.* 66. (*S.L.R.*)]

Lithographs,
&c.

8 Geo. 2. c. 13.
7 Geo. 3. c. 38.
17 Geo. 3. c. 57.
6 & 7 Will. 4.
c. 59.

14. And whereas by the four several Acts of Parliament following; (that is to say,) the Engraving Copyright Act, 1734 the Engraving Copyright Act, 1766, the Prints Copyright Act 1777, and the Prints and Engravings Copyright (Ireland) Act, 1836, provision is made for securing to every person who invents, or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or, from his own work, design, or invention, causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and to every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked any print taken from any picture, drawing, model, or sculpture, notwithstanding such print has not been graven or drawn from his own original design, certain copyrights therein defined: And whereas doubts are entertained whether the provisions of the said Acts extend to lithographs and certain other impressions; and it is expedient to remove such doubts:

Provisions of recited Acts shall include lithographs, &c.

It is hereby declared, that the provisions of the said Acts are intended to include prints taken by lithography, or any other mechanical process by which prints or impressions of drawings or designs are capable of being multiplied indefinitely; and the said Acts shall be construed accordingly.

CHAPTER XXIII.

AN ACT to shorten the Time required for assembling Parliament
after a Dissolution thereof. [17th June 1852.]

[*Preamble.*]

[1.] So often as her Majesty shall, by her royal proclamation, appoint a time for the first meeting of the Parliament of the United Kingdom of Great Britain and Ireland after a dissolution thereof, the time so to be appointed may be any time not less than thirty-five days after the date of such proclamation, the Act of the fifth year of Queen Anne, chapter eight, or the Act of the seventh and eighth years of William the Third, chapter twenty-five, or any other law or usage, to the contrary notwithstanding.

Parliament may be appointed to meet not less than 35 days after the date of the proclamation. 5 Ann. c. 8. [1] 7 & 8 Will 3. c. 25.

CHAPTER XXIV.

AN ACT for the Amendment of the Wills Act, 1837. [2]
[17th June 1852.]

[*Preamble.*]

1. Where by the Wills Act, 1837, it is enacted, that no will shall be valid unless it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction: Every will shall, so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, be deemed to be valid within the said enactment, as explained by this Act, if the signature shall be so placed at or after, or following, or under, or beside, or opposite to the end of the will, that it shall be apparent on the face of the will that the testator intended to give effect by such his signature to the writing signed as his will; and no such will shall be affected by the circumstance that the signature shall not follow or be immediately after the foot or end of the will, or by the circumstance that a blank space shall intervene between the concluding word of the will and the signature, or by the circumstance that the signature shall be placed among the words of the testimonium clause or of the clause of attestation, or shall follow or be after or under the clause of attestation, either with or without a blank space intervening, or shall follow or be after, or under, or beside the names or one of

7 Will. 4. & 1 Vict. c. 26. s. 9.

Position of the testator's signature.

[1] The Union with Scotland Act, 1706, (6 Ann. c. 11, in this edition).]

[2] Short title, "The Wills Act Amendment Act, 1852." See s. 4.]

the names of the subscribing witnesses, or by the circumstance that the signature shall be on a side or page or other portion of the paper or papers containing the will whereon no clause or paragraph or disposing part of the will shall be written above the signature, or by the circumstance that there shall appear to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature under the said Act or this Act shall be operative to give effect to any disposition or direction which is underneath or which follows it, nor shall it give effect to any disposition or direction inserted after the signature shall be made.

Act to extend
to certain wills
already made.

2. The provisions of this Act shall extend and be applied to every will already made, where administration or probate has not already been granted or ordered by a court of competent jurisdiction in consequence of the defective execution of such will, or where the property, not being within the jurisdiction of the ecclesiastical courts, has not been possessed or enjoyed by some person or persons claiming to be entitled thereto in consequence of the defective execution of such will, or the right thereto shall not have been decided to be in some other person or persons than the persons claiming under the will, by a court of competent jurisdiction, in consequence of the defective execution of such will.

Interpretation
of "will."
7 Will. 4. &
1 Vict. c. 26.

3. The word "will" shall in the construction of this Act be interpreted in like manner as the same is directed to be interpreted under the provisions in this behalf contained in the Wills Act, 1837.

Short title.

4. This Act may be cited as the Wills Act Amendment Act, 1852.

CHAPTER XXV.

AN ACT to amend an Act for registering Births, Deaths, and Marriages in England. [17th June 1852.]

[*Preamble recites 6 & 7 Will. 4. c. 86. s. 2.*]

General
Register
Office.

[1.] It shall be lawful for her Majesty, from time to time to provide a proper office, to be called "The General Register Office," in such place or places as may appear to the Treasury to be fit and convenient for the purpose, anything in the said recited Act or in any other Act of Parliament, or otherwise, to the contrary notwithstanding.

CHAPTER XXVII.

AN ACT to amend the Law of Evidence in Scotland.[¹]

[17th June 1852.]

[*Preamble.*]

[1.] No person adduced as a witness in Scotland before any court or before any person having by law or by consent of parties authority to take evidence, shall be excluded from giving evidence, by reason of having been convicted of or having suffered punishment for crime, or by reason of interest, or by reason of agency or of partial counsel, or by reason of having appeared without citation, or by reason of having been precognosced subsequently to the date of citation; but every person so adduced, who is not otherwise by law disqualified from giving evidence, shall be admissible as a witness, and shall be admitted to give evidence as aforesaid, notwithstanding of any objections offered on the above-mentioned grounds: Provided always, that nothing herein contained shall affect the right of any party in the action or proceeding in which such witness shall be adduced to examine him on any point tending to affect his credibility: Provided also, that . . . where any person who is or has been an agent shall be adduced and examined as a witness for his client, touching any matter or thing to prove which he could not competently have been adduced and examined according to the existing law and practice of Scotland, it shall not be competent to the party adducing such witness to object, on the ground of confidentiality, to any question proposed to be put to such witness on matter pertinent to the issue.

Witnesses not to be excluded by reason of conviction, interest, &c.

[S. 2 *rep.* 16 & 17 *Vict. c.* 20. s. 1.]

3. It shall be competent to examine any witness who may be adduced in any action or proceeding as to whether he has on any specified occasion made a statement on any matter pertinent to the issue different from the evidence given by him in such action or proceeding; and it shall be competent in the course of such action or proceeding to adduce evidence to prove that such witness has made such different statement on the occasion specified.

Witness may be examined, &c. as to having previously made a different statement.

4. It shall be competent to the presiding judge or other person before whom any trial or proof shall proceed, on the motion of either party, to permit any witness who shall have been examined in the course of such trial or proof to be recalled.

Witness may be recalled.

[S. 5 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

[¹ Short title, "The Evidence (Scotland) Act, 1852." See 55 & 56 *Vict. c.* 10.]

CHAPTER XXVIII.

AN ACT to amend the Crown Lands Act, 1851, and to vest the Building appropriated for the Accommodation of the Supreme Courts of Justice in Edinburgh in the Commissioners of Works.^[1] [17th June 1852.]

Commissioners of Works incorporated for the purpose of holding lands under this Act, &c.

14 & 15 Vict. c. 42.

1. The persons who for the time being, under the provisions of the Crown Lands Act, 1851, shall be the Commissioners of Works shall be and they are hereby constituted a corporation, by the name and style of "The Commissioners of her Majesty's " Works and Public Buildings," and by that name shall and may have perpetual succession, and use a common seal, to be by them from time to time altered as they shall think fit, for the purpose of taking and holding all the lands, tenements, and hereditaments whatsoever, of every tenure, by this Act vested in them, or hereafter to be vested in or purchased by them under or by virtue of the provisions of this Act, and of conveying, assigning, leasing, underleasing, or otherwise disposing of the same lands, tenements, and hereditaments, and of entering into any covenants or agreements respecting any such hereditaments vested or to be purchased, taken, or disposed of as aforesaid, but not for any other purpose.

Commissioners may purchase lands for public service, and may sell the same, &c.

2. It shall be lawful for the Commissioners of Works to purchase, take, or accept any hereditaments, of what tenure soever, necessary for the public service, and to sell or exchange the same, and give a good discharge for the purchase money thereof to any purchaser or other person, and to grant any lease or leases, underlease or underleases of any such hereditaments so taken as aforesaid, and to enter into any agreements for such sale, exchange, lease, or underlease; so nevertheless that all such hereditaments shall be purchased, taken, exchanged, sold, or leased, and the produce and income thereof applied, by the direction of the Treasury,^[2] and so as every conveyance of any freehold hereditaments in England, Wales, or Ireland, made to or by the said Commissioners of Works under the authority of this Act, be enrolled amongst the records of the Court of Exchequer in England or Ireland, as the case may be]; and all acts by this Act authorized to be done by the Commissioners of Works and all and every the powers and authorities whatsoever by the Act passed in the session of Parliament holden in the third and fourth years of the reign of his late Majesty King William the Fourth, chapter forty-three, and vested in or transferred to the commissioners thereby appointed, may be executed and done by the First Commissioner for the time being of Works or by any two of the said commissioners.

Acts under this Act and powers under 3 & 4 Will. 4. c. 43, may be done and exercised by the First Commissioner or any two commissioners.

Mode of taking security from officers.

3. In all cases in which the Commissioners of Works are or shall be required or authorized to take security from any receiver, collector, clerk, or other officer or contractor, or shall

^[1] Short title, "The Commissioners of Works Act, 1852." See 55 & 56 Vict. c. 10.]

^[2] Words in brackets rep. as to England and Wales, 57 & 58 Vict. c. 23. s. 1.]

think it proper so to do, for securing the due performance of any duty or contract, such security shall be taken by bond to the Queen's most Excellent Majesty; and the said commissioners may in any case, if they think fit, dispense with the taking any sureties, so as that they take in lieu thereof (if they think fit) for the due performance of any duty or contract any security by way of deposit, investment, mortgage, lien or charge, insurance or guarantee.

4. All the courts, court houses, and buildings for the accommodation of the courts of Session, Justiciary, or other the supreme courts at Edinburgh, and of the clerks and officers thereof, and all the lands and buildings connected therewith, and all lands whereon the same are built, and all lands or heritages held therewith, or purchased or acquired under or by virtue of the Acts passed in the forty-sixth year of the reign of his late Majesty George the Third, chapter one hundred and fifty-four, the forty-eighth year of the reign of his said Majesty, chapter one hundred and forty-six, the fifty-ninth year of the reign of his said Majesty, chapter thirty-five, and the sixth year of the reign of his late Majesty George the Fourth, chapter eighty-six, or any of them, shall be vested in the Commissioners of Works in their corporate capacity, for the purposes specified in the aforesaid Acts respectively, and shall be maintained and kept in repair by the said commissioners by and out of all funds (if any) now applicable for that purpose, and which funds shall be vested in or payable to the said commissioners, or by and out of such funds as shall be directed by Parliament to be applied to such purposes.

Supreme Court
buildings at
Edinburgh.

46 Geo. 3.
c. 154.
48 Geo. 3.
c. 146.
59 Geo. 3. c. 35.
6 Geo. 4. c. 86.

5. As regards such of the said lands, buildings, or other heritages so hereby vested in the said commissioners as may not have been or shall not be required for the purposes for which they were acquired, the said commissioners may from time to time grant, sell, exchange, or convey the same, and lease or agree to lease the same till sold, exchanged, or conveyed; and the monies arising from any such sale or lease shall be paid to the Consolidated Fund of the United Kingdom of Great Britain and Ireland, but the receipts of the said commissioners shall be sufficient discharges to any purchaser or lessee paying any monies to them; and the said commissioners may complete or carry into effect any contract for sale, grant, exchange, or lease of any part of the said lands, buildings, and heritages hereinbefore entered into by any trustees of the same, or by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or any person or persons on their behalf.

Commissioners
may sell, ex-
change, &c.
lands and
buildings not
required for
their original
purpose.

6. Provided, nevertheless, that no such sale, grant, exchange or lease shall be made except with the consent of the Treasury.

No sale, &c.
without con-
sent of
Treasury.

7. Notwithstanding the provisions of the Crown Lands (Scotland) Act, 1833, it shall not be necessary to register or

Mode of regis-
tering docu-

ments under
3 & 4 Will. 4.
c. 69. s. 7.

record in the books kept in the Office of Chancery in Scotland any of the documents by the seventh section of the said Act directed to be registered or recorded; but a minute or memorandum of every such conveyance, deed, or other document, describing the same, shall be entered in the minute book of the Office of Chancery in Scotland, and the same shall be taken to be a sufficient compliance with the provisions of the said seventh section of the last-mentioned Act; and the said provisions of the said last-mentioned Act, as altered by this Act, relating to the transmission of documents to the Office of Chancery in Scotland, and other the provisions of the said Act, as altered by this Act, shall apply to any conveyance, deed, or other document executed by the Commissioners of Works in pursuance of the powers of this Act.

CHAPTER XXXII.

AN ACT to alter and amend certain Provisions in the Laws relating to the Number and Election of Magistrates and Councillors in the Burghs in Scotland.^[1]

[30th June 1852.]

[*Preamble recites 3 & 4 Will. 4. c. 76; 4 & 5 Will. 4. c. 87.*]

Interpretation.

1. In construing this Act the word "council" shall be held to include provost, bailies, and councillors; the word "magistrates" shall be held to mean provost and bailies, or bailies, as the case may be.

Number of the
councils in
certain royal
burghs.

2. In each of the royal burghs in Scotland specified in the schedule to this Act annexed, the number of the councils of such royal burghs shall be limited to the numbers specified in the said schedule as applicable to each such burgh respectively; . . .

Number and
description of
magistrates in
such burghs.

3. . . . it shall be competent for the councillors of each such burgh elected under this Act to elect according, or as nearly as may be according, to present use, such number and description of magistrates in each such burgh respectively as are specified in the said schedule as applicable to such burgh.

Majority of
council to be a
quorum.

4. . . . in each such burgh a majority of the whole council of such burgh shall constitute a quorum.

Outgoing
provost and
magistrates to
act until their
successors
come into
office.

5. [*Recital of 3 & 4 Will. 4. cc. 76, 77.*] Whenever it shall so happen that the provost and magistrates of any of the said burghs shall all be included in the one third of the council going out of office, they shall nevertheless retain and continue to exercise all the powers and functions of their several offices of provost and magistrates respectively until the election and

[¹ Short title, "The Burghs (Scotland) Act, 1852." See 55 & 56 Vict. c. 10.]

coming into office of their successors; but they shall not, after the period of their so going out of office, be entitled to act or vote as councillors.

6. At the first meeting of the council of any such burgh after the annual election, but before the election of the provost and magistrates, the provost or senior magistrate who may continue to be a member of council and be present at the said meeting shall preside thereat, and shall at such meeting have a deliberative and in case of equality of votes a casting vote; and if the provost and all the magistrates shall be in the number of councillors retiring from office, then the retiring provost or chief magistrate, or failing them the retiring magistrate next in seniority, shall attend and preside at such meeting until the meeting shall have elected the provost and magistrates respectively, as the case may be, and no longer; and such provost or magistrate shall have no deliberative vote in such meeting, but shall, in case of equality of votes, have a casting vote.

Outgoing provost or senior magistrate to preside at first annual meeting.

[Ss. 7-9 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

10. The provisions of the said recited Acts with respect to the mode of election of magistrates and councils, the term of magistrates and councils remaining in office, the supply of vacancies, and all other the provisions thereof, shall, excepting in so far as inconsistent with or varied by this Act, be and remain in full force and effect;

Saving as to 3 & 4 Wm. 4. c. 76, 77.

SCHEDULE to which the foregoing Act refers. Sect. 2.

	Num- ber of Coun- cil.	Bailies.	Provost.		Num- ber of Coun- cil.	Bailies.	Provost.
Annan	15	3	1	Irvine	18	3	1
Anstruther, Easter	9	2	1	Jedburgh	15	3	1
Anstruther, Wester	9	2	0	Kilrenny	9	2	1
Arbroath	18	3	1	Kinghorn	9	2	1
Auchtermuchty	12	2	1	Kirkwall	12	2	1
Banff	9	3	1	Lanark	15	3	1
Burntisland	12	2	1	Lauder	9	2	0
Crail	9	2	1	Linlithgow	15	3	1
Cullen	12	2	1	Lochmaben	9	1	1
Cullross	9	2	1	New Galloway	9	2	1
Cupar	18	3	1	North Berwick	9	2	0
Dornoch	9	2	1	Peebles	12	2	1
Dumbarton	15	3	1	Pittenweem	12	2	1
Dunbar	12	3	1	Queensferry	9	2	1
Dysart	9	2	1	Renfrew	12	2	1
Earlsferry	9	2	0	Rothsay	13	3	1
Falkland	12	2	1	Sanguhar	9	2	1
Forfar	15	3	1	Selkirk	15	3	1
Haddington	18	3	1	Whithorn	9	2	1
Inverary	12	2	1	Wick	15	3	1
Inverkeithing	12	2	1				

CHAPTER XXXIV.

AN ACT to extend the Act to facilitate the Improvement of Landed Property in Ireland, and the Acts amending the same, to the erection of Scutch Mills for Flax in Ireland.^[1]
[30th June 1852.]

[*Preamble recites 10 & 11 Vict. c. 32 ; 13 & 14 Vict. c. 31.*]

Loans for the erection of scutch mills for flax in Ireland.

10 & 11 Vict. c. 32.
13 & 14 Vict. c. 31.

[1.] Out of any money authorized to be advanced for facilitating the improvement of landed property in Ireland under the Landed Property Improvement (Ireland) Act, 1847, or under such part of the Public Money Drainage Act, 1850, as relates to the improvement of landed property in Ireland, loans may be made for the erection of buildings suitable to scutch mills for flax in Ireland, and for the formation of watercourses and weirs necessary for providing water power for the same; and all the provisions of the Landed Property Improvement (Ireland) Act, 1847, and the Public Money Drainage Act, 1850, so far as the same are applicable, shall be construed in like manner as if the erection of buildings and works as aforesaid for scutch mills for flax had been enumerated in the Landed Property Improvement (Ireland) Act, 1847, among the purposes for which loans might be made under that Act: Provided always, that nothing herein contained shall extend to loans for the erection or supplying of any water-wheel or any machinery for any such scutch mill for flax.

CHAPTER XXXVIII.

AN ACT to explain Two Acts of the Twelfth and Thirteenth Years of the Reign of Her Majesty, concerning the Appointments of Overseers, and the Authority of Justices of the Peace to act in certain Matters relating to the Poor in Cities and Boroughs.
[30th June 1852.]

[*Preamble recites 12 & 13 Vict. c. 8. s. 1 ; 12 & 13 Vict. c. 64. s. 1.*]

Jurisdiction of borough justices under recited Acts.

[1.] In any city or borough all justices of the peace, whether of such city or borough or of the county, riding, or division comprising the same or adjoining thereto, who shall otherwise have jurisdiction to act in any matter arising within such city or borough, shall be deemed to be competent to act therein under and by virtue of the said Statutes in all respects.

[^a Short title, "The Landed Property Improvement (Ireland) Act, 1852." See 55 & 56 Vict. c. 10.]

CHAPTER XXXIX.

AN ACT to remove Doubts as to the Lands and Casual Revenues of the Crown in the Colonies and Foreign Possessions of Her Majesty.

[30th June 1852.]

[*Preamble recites 1 Will. 4. c. 25. s. 2; 1 & 2 Vict. c. 2. s. 2.*]

1. The provisions of the said recited Acts in relation to the hereditary casual revenues of the Crown shall not extend or be deemed to have extended to the monies arising from the sale or other disposition of the lands of the Crown in any of her Majesty's colonies or foreign possessions, nor in anywise invalidate or affect any sale or other disposition already made or hereafter to be made of such lands, or any appropriation of the monies arising from any such sale or other disposition which might have been lawfully made if such Acts or either of them had not been passed.

Recited provisions not to extend to the produce of the sale of Crown lands in the colonies.

2. Nothing in the said recited Acts contained shall extend or be deemed to have extended to prevent any appropriation which, if the said Acts had not been passed, might have been lawfully made, by or with the assent of the Crown, of any casual revenues arising within the colonies or foreign possessions of the Crown (other than droits of the Crown and droits of Admiralty), for or towards any public purposes within the colonies or possessions in which the same respectively may have arisen: Provided always, that the surplus not applied to such public purposes of such hereditary casual revenues shall be carried to and form part of the said Consolidated Fund.

Recited Acts not to prevent the appropriation for colonial purposes of casual revenues arising in the colonies.

CHAPTER XLIX.

AN ACT to extend the Provisions of the several Acts passed for the Conveyance of Sites for Schools.[¹]

[30th June 1852.]

[*Preamble recites 4 & 5 Vict. c. 38; 7 & 8 Vict. c. 37; 12 & 13 Vict. c. 49; 13 & 14 Vict. c. 28; 14 & 15 Vict. c. 24.*]

[1.] All the provisions contained in the said recited Acts or any of them in relation to the conveyance and endowment of sites for such schools as are contemplated by the provisions of the said Acts respectively, shall apply to and be construed to be applicable to the cases of such schools as are herein-after specified; (that is to say,) schools or colleges for the religious or educational training of the sons of yeomen or tradesmen or others, or for the theological training of candidates for holy orders, which are erected or maintained in part by charitable aid, and which in part are self-supporting, in the same or the like manner as if such schools or colleges as last aforesaid had

Provisions of recited Acts as to conveyances and endowments of sites for schools to apply to schools herein specified.

[¹ Short title, "The School Sites Act, 1852." See 55 & 56 Vict. c. 10.]

4 & 5 Vict.
c. 38.

been expressly specified in the School Sites Act, 1841, and the said subsequent Acts, and the same or the like powers had been thereby given for or in relation to the conveyance and endowments of sites for such schools or colleges, and for the residences of schoolmasters, or otherwise in connexion therewith, as are by the said Acts given for or in reference to the conveyance and endowment of sites for schools falling within the provisions of those Acts: Provided always, that no ecclesiastical corporation, sole or aggregate, shall be authorized to grant any site under this Act, except for schools or colleges which shall be conducted upon the principles of and be in union with the Church of England and Ireland as by law established; and that no ecclesiastical corporation, aggregate or sole, shall grant, by way of gift, and without a valuable consideration, for any of the purposes of this Act, any greater quantity of land in the whole than two acres; and that no other person or persons or corporation not coming within the class or description of persons empowered by the second section of the School Sites Act, 1841, to convey land for sites as therein mentioned, shall grant, by way of sale for a valuable consideration, for any of the purposes of this Act, any greater quantity of land in the whole than two acres, or shall grant any land whatever for any of the purposes of this Act by way of gift and without a valuable consideration, anything in the said recited Acts or herein-before contained to the contrary notwithstanding.

CHAPTER L.

AN ACT to consolidate and amend the Laws relating to the Militia in England. [30th June 1852.]

[*Preamble recites 42 Geo. 3. c. 90; 14 & 15 Vict. c. 32.*]

[*Ss. 1—7 rep 38 & 39 Vict. c. 69. s. 98. S. 8 and s. 9 (enabling Her Majesty, by Order in Council, to ascertain and fix the quotas of militia men for the several counties, ridings, and places) rep. 45 & 46 Vict. c. 49. s. 54.*]

Her Majesty may, by order in council, make subdivisions conterminous with superintendent registrars districts under 6 & 7 Will. 4. c. 86. &c.

10. It shall be lawful for her Majesty, with the advice of her Privy Council, from time to time, in case it appear to her expedient so to do for more conveniently apportioning the quotas of men to be furnished under this Act by the several subdivisions of any county, riding, or place, to alter all or any of such subdivisions, or to constitute new subdivisions therein, so as to make all or any of such subdivisions conterminous with the superintendent registrars districts established under the Births and Deaths Registration Act, 1836, or any Act amending the same, or with two or more of such districts added together, and, where it appears that any such district not situate wholly in one county, riding, or place may for the purposes of this Act be conveniently made part of any county, riding, or place in which

the same is partly situate, to declare that the whole of such district shall for such purposes form part of such county, riding, or place; and from and after such time as shall be mentioned in the order in council the whole of such district shall for all the purposes of this Act be deemed to be situate within and part of such county, riding, or place accordingly.

[*Ss. 11-17 rep. 38 & 39 Vict. c. 69. s. 98.*]

18. In case it appear to her Majesty in any year that the number of men for the time being to be raised under this Act for any county, riding, or place, for keeping up the full number of men herein-before appointed to be raised and kept up cannot be raised in manner aforesaid, or in case of actual invasion or imminent danger thereof, it shall be lawful for her Majesty in any such cases, with the advice of her Privy Council, if it appear to her advisable so to do, to order and direct that the number of men so required to be raised shall be raised by ballot as herein provided.

Where men cannot be raised by voluntary enlistment, or in case of actual invasion, &c. her Majesty in Council may order a ballot.

[*S. 19 (apportionment of the number of men to be raised by ballot among the subdivisions and parishes of the county, &c.), and s. 20 rep. 38 & 39 Vict. c. 69. s. 98.*]

21. No member of the senate of the University of London, nor any examiner, professor, tutor, or lecturer of the said university, or of any college, school, or institution connected with the said university, under the provisions of any charter thereof, nor any student of any such college, school, or institution duly matriculated in the said university, and actually receiving education in any of the said colleges, schools, or institutions, nor any resident member of the University of Durham, or of the colleges of St. David, Lampeter, or St. Bees, shall be liable to serve or provide a substitute for the militia.

Exemptions from service in militia.

[*S. 22 rep. 38 & 39 Vict. c. 69. s. 98.*]

23. Where any person is incapacitated from serving in the militia by reason of any infirmity, it shall be sufficient in any return or list for the purposes of the militia to state that such person is infirm, without describing or otherwise specifying the nature of his infirmity.

Nature of infirmity need not be stated in returns.

24. The Registrar General shall from time to time, when directed by one of her Majesty's Principal Secretaries of State, furnish to the lieutenants of the said several counties, ridings, and places, from the returns which have been or may from time to time be made to him by authority of Parliament, and from the other documents in his custody or power, such information or estimates as such Secretary of State may direct of the number of men fit and liable to serve in the subdivisions and parishes of such several counties, ridings, and places, for the guidance of such lieutenants and their deputy lieutenants in apportioning the number of men required to be raised by ballot; and it shall be

Registrar General to furnish information to lieutenants of counties for their guidance in apportioning the number of men to be raised by ballot.

lawful for such lieutenants and deputy lieutenants, in making such apportionments, to act upon the information or estimates so furnished.

[*Ss. 25-29 rep. 38 & 39 Vict. c. 69. s. 98. Ss. 30, 31 rep. 45 & 46 Vict. c. 49. s. 54.*]

The provisions of 42 Geo. 3. c. 90. &c. to extend to the militia raised under this Act.

32. All the provisions of the said first-recited Act, and of any Acts amending the same, not hereby repealed, shall, subject to the provisions of this Act, and so far as the same are not inconsistent herewith, extend and be applicable to the militia to be raised under this Act, and to all the purposes thereof: Provided always, that no ballot nor any meeting or other proceedings for or in relation to a ballot shall be had under the said first recited Act and the Acts amending the same, save when her Majesty shall order men to be raised by ballot as herein-before provided; and the militia to be raised under this Act shall be in substitution for, and not in addition to, the militia directed to be raised by the said first-recited Act.

[*Ss. 33, 34 rep. 38 & 39 Vict. c. 69. s. 98. S. 35 rep. 45 & 46 Vict. c. 49. s. 54.*]

Militia of the City of London to continue to be raised under 1 Geo. 4. c. 100.

36. Notwithstanding anything herein contained, the militia of the City of London shall continue to be raised and regulated under the provisions of an Act of the first year of King George the Fourth, "for amending and reducing into one Act of Parliament " two several Acts passed in the thirty-sixth and thirty-ninth " years of the reign of his late Majesty King George the Third, " for the better ordering and further regulating of the militia " of the City of London"; and nothing herein contained shall be taken to repeal or alter the provisions of such Act; . . .

44 Geo. 3. c. 54. to continue to apply to yeomanry.

37. Notwithstanding anything herein contained, the provisions contained in the Yeomanry Act, 1804, shall continue in force, so far as the same applies to the enrolment of corps of yeomanry, and the exemptions to which such corps are entitled by virtue of the last-mentioned Act.

Cornwall and Devon Militia. 42 Geo. 3. c. 72.

38. [*Recital of 42 Geo. 3. c. 72; 51 Geo. 3. c. 114, which relate to the raising of a regiment of miners in Cornwall and Devon, as a militia force.*] . . . in the event of men being required under the provisions of this Act to be raised by ballot for the said regiment, the provisions of the said Act of the forty-second year of King George the Third, chapter seventy-two, and of any Act amending the same, shall (subject to the provisions of this Act) be applicable and put in force for the purpose of raising such men; . . . and no man shall be liable to be ballotted for the said regiment after thirty-five years of age.

CHAPTER LII.

AN ACT to enable Colonial and other Bishops to perform certain
Episcopal Functions, under Commission from Bishops of
England and Ireland. [30th June 1852.]

[*Preamble recites 53 Geo 3. c. 155 ; 3 & 4 Will. 4 c. 35 ; which provide
for appointment by letters patent of bishops in the British
territories in India.*]

1. Notwithstanding anything in the said Acts or in any letters patent as aforesaid contained, it shall be lawful for any bishop who by virtue of such royal letters patent under the Great Seal of the said United Kingdom shall exercise or have exercised in the British territories aforesaid the office of bishop of Calcutta, or Madras, or Bombay respectively, upon the request and by the commission in writing under the hand and seal of the bishop of any diocese in England or Ireland, and with the consent and licence in writing of the archbishop of the province within which such diocese shall be situated, to ordain any persons, provided such persons shall be presented to him under the direction and authority of the bishop of such diocese, and to perform all other functions peculiar and appropriate to the order of bishops within the limits of such diocese.

East Indian
bishops, under
commission
from bishops
in England
and Ireland,
may ordain,
&c. in the
dioceses of
such last-
mentioned
bishops.

2. And whereas by an Act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the time being to admit persons into holy orders specially for the colonies," it was enacted, "that from and after the passing of this Act no person who shall have been admitted into holy orders by the bishops of Quebec, Nova Scotia, or Calcutta, or by any other bishop or archbishop than those of England and Ireland, shall be capable of officiating in any church or chapel of England or Ireland, without special permission from the archbishop of the province in which he proposes to officiate, or of having, holding, or enjoying or of being admitted to any parsonage or other ecclesiastical preferment in England or Ireland, or of acting as curate therein, without the consent and approbation of the archbishop of the province and also of the bishop of the diocese in which any such parsonage or ecclesiastical preferment or curacy may be situated"; and it was provided, "that no person who after the passing of this Act shall have been ordained a deacon or priest by a colonial bishop, who at the time of such ordination did not actually possess an episcopal jurisdiction over some diocese, district, or place, or was not actually residing within such diocese, district, or place shall be capable, in any way or on any pretence whatever, of at any time holding any parsonage or other ecclesiastical

59 Geo. 3.
c. 60. ss. 3, 4.

3 & 4 Vict.
c. 33. s. 6.

Admissions,
institutions,
&c. of persons
ordained in an
English or
Irish diocese
under commis-
sion from the
bishop thereof
by an East
Indian or
colonial
bishop, to be
valid, notwith-
standing
recited Acts.

“ preferment within his Majesty’s dominions, or of being a
“ stipendiary curate or chaplain, or of officiating at any place or
“ in any manner as a minister of the Established Church of
“ England and Ireland”: And whereas by an Act passed in
the third and fourth years of the reign of the Queen’s most
excellent Majesty, intituled “ An Act to make certain provisions
“ and regulations in respect to the exercise, within England and
“ Ireland, by the bishops and clergy of the Protestant Episcopal
“ Church in Scotland, and also to extend such provisions and
“ regulations to the bishops and clergy of the Protestant
“ Episcopal Church in the United States of America, and also to
“ make further regulations in respect to bishops and clergy
“ other than those of the United Church of England and
“ Ireland,” it was enacted, “ that no person who has been or shall
“ be ordained a deacon by any Protestant bishop, other than an
“ archbishop or bishop of the United Church of England and
“ Ireland, and who shall after the passing of this Act be ordained
“ a priest by any archbishop or bishop of the United Church of
“ England and Ireland, shall be thereby enabled, save as in this
“ Act is provided, to exercise his office within England or Ire-
“ land”: Be it enacted, and it is hereby enacted, that nothing in
the said recited Acts contained shall extend or be held to extend to
any person who, in pursuance of such request and commission as
aforesaid from the bishop of any diocese in England or Ireland,
shall have been or may hereafter be ordained a deacon or priest
within the limits of such diocese by any bishop who by virtue
of her Majesty’s royal letters patent under the Great Seal of the
United Kingdom of Great Britain and Ireland, shall exercise or
have exercised the office of bishop within the British territories
in India, or in any of her Majesty’s colonies or foreign posses-
sions; and that all admissions, institutions, and inductions to
benefices in the United Church of England and Ireland, and all
appointments to act as curates and chaplains therein, of persons
so admitted into holy orders by any such bishop, shall, notwith-
standing anything in the said recited Acts contained, be to all
intents and purposes good and valid in law.

Bishops so
officiating shall
be subject to
the laws of
the realm, &c.
as to the titles,
&c. of persons
ordained by
them.

3. Provided always, that all and every of such bishops, who,
in accordance with the provisions of this Act, shall officiate in
behalf of the bishop of any diocese in England or Ireland, in
conferring holy orders, shall be subject to the several provisions
and limitations established by the laws of this realm, or canons
ecclesiastical, as to the titles of the persons to be ordained, and
as to the oaths and subscriptions to be by such persons taken
and made.

Letters of
orders of per-
sons so or-
dained shall
be signed by
the officiating

4. Provided also, that all letters of orders of persons ordained
by any such bishop, in accordance with the provisions of this
Act, shall be issued in the name and be subscribed with the
signature of such bishop, as commissary of the bishop of the
diocese at whose request and by whose commission he shall

officiate in conferring such orders, and shall be sealed with the seal of the bishop of such diocese; and all such acts of ordination by any such bishop shall be recorded and registered in like manner as if they had been performed by the bishop of such diocese.

bishop as
commissary.

5. Provided always, that nothing in this Act contained shall be construed to authorize any such bishop to use or exercise any jurisdiction whatsoever within the United Kingdom of Great Britain and Ireland.

Act not to
confer epis-
copal juris-
diction in
United King-
dom.

CHAPTER LV.

AN ACT to extend the provisions of "The Trustee Act, 1850." [1]
[30th June 1852.]

[*Preamble recites the Trustee Act, 1850 (13 & 14 Vict. c. 60).*
[*Ss. 1-5 rep. 56 & 57 Vict. c. 53. s. 51.*]

6. When any order being or purporting to be under this Act, or under the Trustee Act, 1850, shall be made by the Lord Chancellor intrusted as aforesaid, . . . vesting the right to any stock, or vesting the right to transfer any stock, or vesting the right to call for the transfer of any stock, in any person or persons, in every such case the legal right to transfer such stock shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock into his or their own name or names, or otherwise, to the extent and in conformity with the terms of the order; and the Bank of England, and all companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as the said Bank of England, or such companies associations, or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Right to
transfer stock
&c. to vest in
accordance
with orders
made under
this Act or
13 & 14 Vict.
c. 60.

Bank of Eng-
land and com-
panies, &c. to
comply with
such orders.

7. Every order made or to be made, being or purporting to be made under this or the Trustee Act, 1850, by the Lord Chancellor intrusted as aforesaid, . . . and duly passed and entered, shall be a complete indemnity to the Bank of England, and all companies and associations whatsoever, and

Orders to be
an indemnity
to Bank and
companies, &c.
complying
therewith.

[1 Short title, "The Trustee Act, 1852." See 55 & 56 Vict. c. 10.

This Act is rep. except so far as relates to the Court exercising jurisdiction in lunacy in Ireland, 56 & 57 Vict. c. 53. s. 51.]

all persons, for any act done pursuant thereto; and it shall not be necessary for the Bank of England, or such company or association, or person, to inquire concerning the propriety of such order, or whether the Lord Chancellor intrusted as aforesaid, . . . had jurisdiction to make the same.

[*Ss. 8, 9 rep. 56 & 57 Vict. c. 53. s. 51.*]

Appointment
of new
trustees.

10. In every case in which the Lord Chancellor intrusted as aforesaid has jurisdiction under this Act, or the Trustee Act, 1850, to order a conveyance or transfer of land or stock, or to make a vesting order, it shall be lawful for him also to make an order appointing a new trustee or new trustees, in like manner as the Court of Chancery may do in like cases, without its being necessary that the order should be made in Chancery as well as in lunacy, or be passed and entered by the registrar of the Court of Chancery.

Exercise of
lunacy juris-
diction under
this Act.

11. All the jurisdiction conferred by this Act on the Lord Chancellor, intrusted by virtue of the Queen's Sign Manual with the care of the persons and estates of lunatics, shall and may be had, exercised, and performed by the person or persons for the time being intrusted as aforesaid.

Act to be
construed as
part of 13 & 14
Vict. c. 60.

12. This Act shall be read and construed according to the definitions and interpretations contained in the second section of the Trustee Act, 1850; and the provisions of the said last-mentioned Act (except so far as the same are altered by or inconsistent with this Act) shall extend and apply to the cases provided for by this Act, in the same way as if this Act had been incorporated with and had formed part of the said Trustee Act, 1850.

[*S. 13 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

CHAPTER LVI.

AN ACT for regulating the Qualifications of Pharmaceutical Chemists.^[1] [30th June 1852.]

WHEREAS it is expedient for the safety of the public that persons exercising the business or calling of pharmaceutical chemists in Great Britain should possess a competent practical knowledge of pharmaceutical and general chemistry and other branches of useful knowledge: And whereas certain persons desirous of advancing chemistry and pharmacy, and of promoting an uniform system of educating those who should practise the same, formed themselves into a society, called "The Pharmaceutical Society of Great Britain," which said society was on

[¹ Short title, "The Pharmacy Act, 1852." See 55 & 56 Vict. c. 10.

the eighteenth day of February one thousand eight hundred and forty-three incorporated by royal charter, whereby it was provided that the said society should consist of members who should be chemists and druggists who were or had been established on their own account at the date of the said charter, or who should have been examined in such manner as the council of the said society should deem proper, or who should have been certified to be duly qualified for admission, or who should be persons elected as superintendents by the council of the said society: And whereas it is expedient to prevent ignorant and incompetent persons from assuming the title of or pretending to be pharmaceutical chemists or pharmaceutists in Great Britain, or members of the said Pharmaceutical Society; and to that end it is desirable that all persons before assuming such title should be duly examined as to their skill and knowledge by competent persons, and that a register should be kept by some legally authorized officer of all such persons: And whereas for the purposes aforesaid, and for extending the benefits which have already resulted from the said charter of incorporation, it is desirable that additional powers should be granted for regulating the qualifications of persons who may carry on the business of pharmaceutical chemists:

1. The said charter of incorporation granted to the said society on the eighteenth day of February one thousand eight hundred and forty-three, save and except such part or parts thereof as are hereby altered, varied, or repealed, shall be and the same is hereby confirmed and declared to be in full force and virtue, and shall be as good and effectual to all intents and purposes as if this Act had not been passed.

Charter, dated 18th Feb. 1843, confirmed save as hereby altered.

2. The council of the said Pharmaceutical Society shall be and the same are hereby authorized and empowered to alter and amend the byelaws of the said society made and established under or in pursuance of the said charter of incorporation, and to make and establish such new or additional byelaws as they shall deem proper and necessary for the purposes contemplated by the said charter or by this Act: Provided always, that all such original byelaws, and all altered, amended, or additional byelaws, shall be confirmed and approved by a special general meeting of the members of the said Pharmaceutical Society, and by one of her Majesty's Principal Secretaries of State:

Council may alter byelaws, subject to the approval of general meeting and of the Secretary of State.

[*S. 3 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

4. The council of the said Pharmaceutical Society shall appoint a fit and proper person as a registrar under this Act; and the council of the said society shall have the power to remove any registrar to be appointed under this Act, from the said office, and from time to time to appoint a new registrar in the room of any registrar who may die, or retire, or be removed from office

Council to appoint a registrar, &c.

as aforesaid, and also to appoint and remove from time to time a deputy registrar, and such clerks and other subordinate officers as may be requisite for carrying out the purposes of this Act, and also to pay suitable salaries to the said registrar, deputy registrar, clerks, and officers.

Register of
members
books, &c.

5. The registrar to be appointed under or by virtue of this Act shall from time to time make out and maintain a complete register of all persons being members of the said society, and also of all persons being associates and apprentices or students respectively, according to the terms of the charter of incorporation, and shall keep a proper index of the register, and all such other registers and books as may be required by the council of the said society, and may be necessary for giving effect to the byelaws of the said society and to the provisions of this Act.

[*S. 6 is local and personal.*]

Certificate of
registrar as
to membership,
&c.

7. The registrar to be appointed under or by virtue of this Act shall be bound, on the application of any person paying one shilling, to certify under his hand whether or no any person whose name and address shall be furnished to him appears in the said register or is a member of the Pharmaceutical Society of Great Britain or not; and the certificate of such registrar, signed by the said registrar, and countersigned by the president or two members of the council of the said society, shall, in the absence of evidence to the contrary, be sufficient evidence of the facts therein stated up to the date of the said certificate.

Examinations
by appointed
examiners.

8. All such persons as shall from time to time be appointed under or in pursuance of the said charter of incorporation or the byelaws thereof, or under this Act, shall be and the same are hereby declared to be fit and proper persons to conduct all such examinations as are provided for or contemplated by this Act, and shall respectively have full power and authority and are hereby authorized and empowered to examine all persons who shall present themselves for examination under the provisions of this Act in their knowledge of the Latin language, in botany, in materia medica, and in pharmaceutical and general chemistry, and such other subjects as may from time to time be determined by any byelaw; provided always, that such examination shall not include the theory and practice of medicine, surgery, or midwifery; and the said examiners are hereby empowered to grant or refuse to such persons, as in their discretion may seem fit, certificates of competent skill and knowledge and qualification to exercise the business or calling of pharmaceutical chemists, or, as the case may require, to be engaged or employed as students, apprentices, or assistants respectively.

Examinations
in Scotland.

9. It shall be lawful for the council of the society, and they are hereby required, to appoint such fit and proper persons in

Scotland, to meet in Edinburgh or Glasgow, or such other place or places as the council may think desirable, and to conduct there all such examinations as are provided for and contemplated by this Act, with such and the like powers and authorities in respect thereof as are herein conferred, and to grant to the persons to be so examined such and the like certificates as are herein-before specified and referred to, or to refuse the same; and all the provisions of this Act shall be equally applicable to the examiners, examinations, and parties examined in Scotland, as to the examiners, examinations, and parties examined in England.

10. Every such person who shall have been examined by the persons appointed as aforesaid, and shall have obtained a certificate of qualification from them, shall be entitled to be registered by the registrar according to the provisions of this Act, upon payment of such fee or fees as shall be fixed by the byelaws; and every such person duly registered as a pharmaceutical chemist shall be eligible to be elected as a member of the said society; and every such person duly registered as an assistant shall be eligible for admission as an associate of the said society; and every such person duly registered as a student or apprentice to a pharmaceutical chemist shall be eligible for admission into the said society; according to the byelaws thereof.

Persons obtaining certificates to be entitled to be registered; and eligible as members of the society, &c.

11. No person who is a member of the medical profession, or who is practising under any right of a degree of any university, or under a diploma or licence of a medical or surgical corporate body, shall be entitled to be registered under this Act; and if any registered pharmaceutical chemist shall obtain such diploma or licence, his name shall not be retained on the said register during the time that he is engaged in practice as aforesaid.

Certain persons not entitled to be registered under this Act.

12. It shall not be lawful for any person, not being duly registered as a pharmaceutical chemist according to the provisions of this Act, to assume or use the title of pharmaceutical chemist or pharmacist in any part of Great Britain, or to assume, use, or exhibit any name, title, or sign implying that he is registered under this Act, or that he is a member of the said society; and if any person, not being duly registered under this Act, shall assume or use the title of pharmaceutical chemist or pharmacist, or shall use, assume, or exhibit any name, title, or sign implying that he is a person registered under this Act, or that he is a member of the said society, every such person shall be liable to a penalty of five pounds; and such penalty may be recovered by the registrar to be appointed under this Act, in the name and by the authority of the council of the said society, in manner following; (that is to say,)

Penalty for unlawfully assuming title of pharmaceutical chemist, &c.

In England or Wales, by plaint under the provisions of any Act in force for the more easy recovery of small debts and demands:

In Scotland, by action before the court of session in ordinary form, or by summary action before the sheriff of the county, or in the royal burghs before the magistrates of the burghs where the offence may be committed or the offender resides, who, upon proof of the offence or offences either by confession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable in the penalty or penalties aforesaid, as also in expences; and it shall be lawful for the sheriff or magistrate, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by pouding:

Provided always, that it shall be lawful to the sheriff or magistrate, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expences; and any judgment so to be pronounced by the sheriff or magistrate in such summary application shall be final and conclusive, and not subject to review, by advocacy, suspension, reduction, or otherwise.

Limitation of actions for recovery of penalties, &c.

13. Provided always, that no action or other proceeding for any offence under this Act shall be brought after the expiration of six months from the commission of such offence; and in every such action or proceeding the party who shall prevail shall recover his full costs of suit or of such other proceedings.

Application of penalties.

14. All and every sum and sums of money which shall arise from any conviction and recovery of penalties for offences incurred under this Act shall be paid as the Treasury shall direct.

Falsifying register, &c.

15. If any registrar under this Act shall wilfully make or cause to be made any falsification in any matters relating to any register or certificate aforesaid, every such offender shall be deemed guilty of a misdemeanor.

Procuring false certificate, &c.

16. If any person shall wilfully procure by any false or fraudulent means a certificate purporting to be a certificate of registration under this Act, or shall fraudulently exhibit a certificate purporting to be a certificate of membership of the Pharmaceutical Society, every such person so offending shall be adjudged guilty of a misdemeanor.

CHAPTER LVII.

AN ACT to provide for more effectual Inquiry into the Existence of Corrupt Practices at Elections for Members to serve in Parliament.^[1] [30th June 1852.]

[Preamble.]

1. Where by a joint address of both Houses of Parliament it shall be represented to her Majesty that a committee of the House of Commons appointed to try an election petition, or a committee of that House appointed to inquire into the existence of corrupt practices in any election or elections of a member or members to serve in Parliament, have reported to the House that corrupt practices have, or that there is reason to believe that corrupt practices have, extensively prevailed in any county, division of a county, city, borough, university, or place in the United Kingdom electing or sharing in the election of a member or members to serve in Parliament, at any election or elections of such members or member, and the said Houses shall thereupon pray her Majesty to cause inquiry to be made under this Act, by persons named in such address, such persons being (where the inquiry to be made relates to a place in England or Ireland) barristers-at-law of not less than seven years standing, or (where such inquiry relates to a place in Scotland) advocates of not less than seven years standing, and not being members of Parliament, or holding any office or place of profit under the Crown, other than that of a recorder of any city or borough, it shall be lawful for her Majesty, by warrant under her Royal Sign Manual, to appoint the said persons to be commissioners for the purpose of making inquiry into the existence of such corrupt practices; and in case any of the commissioners so appointed die, resign, or become incapable to act, it shall be lawful for the surviving or continuing commissioners or commissioner to act in such inquiry as if they or he had been solely appointed to be commissioners or a sole commissioner for the purposes of such inquiry, and (as to such sole commissioner) as if this Act had authorized the appointment of a sole commissioner; and all the provisions of this Act concerning the commissioners appointed to make any such inquiry shall be taken to apply to such surviving or continuing commissioner or commissioners.

Appointment of commissioners to inquire into corrupt practices at elections.

2. Every commissioner appointed in pursuance of this Act shall, before beginning to act in the execution of this Act, take the following oath; (that is to say,) Commissioners to be sworn.

‘ I A.B. do swear, that I will truly and faithfully execute the powers and trusts vested in me by the Election Commissioners

[¹ Short title, “The Election Commissioners Act, 1852.” See 55 & 56 Vict. c. 10.]

‘ Act, 1852, according to the best of my knowledge and
‘ judgment.

So help me GOD.’

And every such commissioner appointed in England or Ireland shall take such oath before a justice of the Court of Queen’s Bench, or a baron of the Court of Exchequer, in England or Ireland respectively; and every such commissioner appointed in Scotland shall take such oath before a judge of the Court of Session in Scotland.

Secretary and
clerks to be
appointed.

3. It shall be lawful for any commissioners appointed under this Act to appoint, and at their pleasure to dismiss, a secretary, and so many clerks, messengers, and officers as shall be thought necessary by one of Her Majesty’s Principal Secretaries of State, for the purpose of conducting the inquiry to be made by them, and to pay to such secretary, clerks, messengers, and officers such salaries and allowances as shall be thought reasonable by the Treasury.

Meetings of
commissioners.

4. The commissioners appointed under this Act to make inquiry as aforesaid in relation to any county, division of a county, city, borough, university, or place, shall, upon their appointment, or within a reasonable time afterwards, go to such county, division of a county, city, borough, university, or place, and shall from time to time hold meetings for the purposes of such inquiry at some convenient place within the same, or within ten miles thereof, and shall have power to adjourn such meetings from time to time, and from any one place to any other place within such county, division of a county, city, borough, university, or place, or within ten miles thereof, as to them may seem expedient; and such commissioners shall give notice of their appointment, and of the time and place of holding their first meeting, by publishing the same in some newspaper in general circulation in such county, division of a county, city, borough, university, or place, or the neighbourhood thereof: Provided always, that such commissioners shall not adjourn the inquiry for any period exceeding one week, without the consent and approbation of one of her Majesty’s Principal Secretaries of State.

Meetings in
London and
Westminster.

5. Provided also, that it shall be lawful for the said commissioners, with such consent and approbation as aforesaid, to hold meetings of the said commissioners in the cities of London or Westminster, and to adjourn the same from time to time, as they may deem fit.

Inquiry by the
commissioners.

6. Such commissioners shall, by all such lawful means as to them appear best, with a view to the discovery of the truth, inquire into the manner in which the election in relation to which such committee as aforesaid may have reported to the House of Commons, or, where the report of such committee has referred to two or more elections, the latest of such elections,

has been conducted, and whether any corrupt practices have been committed at such election, and, if so, whether by way of the gift or loan or the promise of the gift or loan of any sum of money or other valuable consideration to any voter or voters, or to any other person or persons on his or their behalf, for the promise or the giving of his or their vote or votes, or for his or their refraining or promising to refrain from giving his or their vote or votes, at such election, or for his or their procuring or undertaking to procure the votes of other electors at such election, or whether by the payment of any sum of money or loan or other valuable consideration whatsoever to any voter, or to any other person on his behalf, before, during, or after the termination of such election, by way of head money, or in compliance with any usage or custom in the county, division of a county, city, borough, university, or place to which the inquiry relates, or how otherwise, or whether any sum of money or other valuable consideration whatsoever has been paid to any voter, or to any other person on his behalf, after the termination of such election, as a reward for giving or for having refrained from giving his vote at such election; and in case such commissioners find that corrupt practices have been committed at the election into which they are herein-before authorized to inquire, it shall be lawful for them to make the like inquiries concerning the latest previous election for the same county, division of a county, city, borough, university, or place; and upon their finding corrupt practices to have been committed at that election it shall be lawful for them to make the like inquiries concerning the election immediately previous thereto for such county, division of a county, city, borough, university, or place, and so in like manner from election to election, as far back as they may think fit; but where upon inquiry as aforesaid concerning any election such commissioners do not find that corrupt practices have been committed thereat, they shall not inquire concerning any previous election; and such commissioners shall from time to time report to her Majesty the evidence taken by them, and what they find concerning the premises, and especially such commissioners shall report with respect to each election the names of all persons whom they find to have been guilty of corrupt practice at such election, and as well of those who have given bribes for the purchase or for the purpose of purchasing the votes of others as of those who have themselves received money or any other valuable consideration for having given or having refrained from giving, or for the purpose of inducing them to give or to refrain from giving their votes at such election, and also the names of all persons whom they find to have given to others, or to have received themselves, payments by way of head money, or as a reward for giving or refraining from giving their votes at such election, and all other things whereby in the opinion of the said commissioners the truth may be better known touching the premises.

Reports to be
laid before
Parliament.

7. Every report which such commissioners make to her Majesty in pursuance of this Act shall be laid before Parliament within one calendar month next after such report is made, if Parliament be then sitting, or, if Parliament be not then sitting, then within one calendar month next after the then next meeting of Parliament.

Attendance of
persons and
production of
books, &c.

8. It shall be lawful for such commissioners, by a summons under their hands and seals, or under the hand and seal of any one of them, to require the attendance before them, at a place and time to be mentioned in the summons, which time shall be a reasonable time from the date of such summons, of any persons whomsoever, whose evidence, in the judgment of such commissioners or commissioner, may be material to the subject matter of the inquiry to be made by such commissioners, and to require all persons to bring before them such books, papers, deeds, and writings, as to such commissioners or commissioner appear necessary for arriving at the truth of the things to be inquired into by them under this Act; all which persons shall attend such commissioners, and shall answer all questions put to them by such commissioners touching the matters to be inquired into by them, and shall produce all books, papers deeds, and writings required of them, and in their custody or under their control, according to the tenor of the summons: Provided always, that no statement made by any person in answer to any question put by such commissioner shall, except in cases of indictment for perjury committed in such answers, be admissible in evidence in any proceeding, civil or criminal.

Provide as to
admissibility in
evidence of
statements.

[*Ss. 9, 10 rep. 26 & 27 Vict. c. 29 s. 10 (temp.)*].

Examination
on oath, &c.

11. It shall be lawful for any such commissioners, or one of them, to administer an oath, or an affirmation where an affirmation would be admitted in a court of justice on the ground of religious scruples, to all persons who are examined before them touching the things to be inquired into by them under this Act.

Penalty for
non-attend-
ance, or re-
fusing to give
evidence or
produce books,
&c.

12. If any person on whom any summons shall have been served, by the delivery thereof to him or by the leaving thereof at his usual place of abode, fail to appear before the said commissioners at the time and place specified in such summons, it shall be lawful for the said commissioners to certify such default under their hands and seals, or under the hand and seal of any one of them, to any of her Majesty's superior courts in England or Ireland or to the Court of Session in Scotland, or to the Lord Ordinary on the bills in the said court, as the case may be; and thereupon such court or judge shall proceed against the person so failing to attend, in the same manner as if the said person had failed to obey any writ of subpœna, or any process issuing out of the said court; and if any person so summoned to attend as aforesaid, and having appeared before the said commissioners, shall refuse to be sworn, or to make answer to such

questions as are put to him touching the matters in questions by the said commissioners, or to produce and show to the said commissioners any papers, books, deeds, or writings being in his possession or under his control, which the commissioners may deem necessary to be produced; or if any person shall be guilty of any contempt of the said commissioners or their office, the said commissioners shall have such and the same powers, to be exercised in the same way, as any judge of any of her Majesty's superior courts of England or Ireland, or of the Court of Session in Scotland, sitting under any commission, may now by law exercise in that behalf; and all head-boroughs, gaolers, constables, and bailiffs shall and they are required to give their aid and assistance to the said commissioners in the execution of their office.

13. Every person who, upon examination upon oath or affirmation before any commissioners to be appointed under this Act, wilfully gives false evidence, shall be liable to the pains and penalties of perjury. Penalty for false swearing, &c.

14. The said commissioners shall have power, if they deem fit, to award to any witness summoned to appear before them a reasonable sum for his or her travelling expences, and for his or her maintenance, according to a scale to be determined and approved of by the Treasury; and the said commissioners shall certify to the Treasury the names of the said witnesses, together with the sums allowed to each; and the said commissioners shall pay to the said witnesses the said sums so allowed as aforesaid, out of any money which may be provided by Parliament for the purposes of the said commission. Expences of witnesses.

15. It shall be lawful for the Treasury to make an Order for the payment of the necessary expences of any inquiry under this Act; and every commissioner to be appointed under this Act shall be paid, at the conclusion of the inquiry, over and above his travelling and other expences, such sum as the Treasury think fit; and any commissioners so appointed shall, after the termination of their last sitting, and after they have made their report to her Majesty as herein-before directed, lay or cause to be laid before the Treasury a statement of the number of days they have been actually employed in the inquiry made by them, together with an account of the travelling and other expences of each of such commissioners; and the Treasury shall make an order for the payment to each commissioner of the sum which the Treasury so think fit to be paid to him, and in respect of his travelling and other expences, . . . Expences of the inquiry.

16. The commissioners shall have such and the like protection and privileges, in case of any action brought against them for any act done or omitted to be done in the execution of their duty, as is now by law given by any Act or Acts now or hereafter to be in force to justices acting in execution of their office. Protection of commissioners.

CHAPTER LXII.

AN ACT to alter and amend certain Acts relating to the Woods, Forests, and Land Revenues of the Crown.^[1]

[30th June 1852.]

Treasury order
of 29 Jan.
1852.

14 & 15 Vict.
c. 42.

8 & 9 Vict.
c. 99. s. 8.

Appointments
of Gaveller of
the Forest of
Dean and Con-
servator of the
River Mersey.

WHEREAS by an order under the hands of two of the Commissioners of her Majesty's Treasury, bearing date on or about the twenty-ninth day of January one thousand eight hundred and fifty-two, the said commissioners, by virtue of the powers vested in them for that purpose by the Crown Lands Act, 1851, did assign to the Right Honourable Thomas Francis Kennedy, one of the Commissioners of Woods, the management and direction of or in relation to (among other Woods, Forests, and Land Revenues,) Dean Forest and High Meadow Woods, and the office of Gaveller of Dean Forest, and they did by the said order assign to the said Thomas Francis Kennedy the whole duties and powers whatsoever which but for their said order might be exercised by the said commissioners jointly relative to the premises the management and direction whereof was so thereby assigned to the said Thomas Francis Kennedy; and the Treasury did by the said order assign to the Honourable Charles Alexander Gore, the other of the said Commissioners of Woods, the management and direction of or in relation to the Woods, Forests, and Land Revenues therein particularly mentioned, and also the office of Conservator of the River Mersey; and, subject to the specific assignment of duties and powers to the said Thomas Francis Kennedy, they did by the said order assign to the said Charles Alexander Gore the whole of the duties and powers whatsoever which but for that order might have been exercised by the said commissioners jointly relative to the Woods, Forests, and Land Revenues, and the office the management and direction whereof were so thereby assigned to the said Charles Alexander Gore: And whereas doubts have been entertained as to whether such order of the Commissioners of her Majesty's Treasury as aforesaid is effectual for vesting the afore-said offices and other offices and duties in the said Commissioners of Woods, respectively for all purposes; and it is expedient that such doubts be removed: And whereas it is expedient that the provisions contained in the eighth section of the Crown Lands Act, 1845, should be extended; and that such further provisions relating to the management of the Woods, Forests, and Land Revenues of the Crown should be made as are herein-after contained:

1. By virtue of the said order the said Thomas Francis Kennedy and Charles Alexander Gore were respectively to all intents and purposes constituted Gaveller of the Forest of Dean and a Conservator of the River Mersey, and shall respectively hold and discharge the duties of the said respective offices so

[¹ Short title, "The Crown Lands Act, 1852." See 55 & 56 Vict. c. 10.]

long as the said order shall continue in force ; and all assignments or appointments of or to the said offices or either of them, or to any other office whatsoever, which shall at any time hereafter be made by the Treasury in pursuance of the power aforesaid, shall have the effect of constituting the person to whom such assignment or appointment shall be made the holder of such office during the continuance of such order, with authority to exercise all the powers thereof or belonging thereunto, and for all intents and purposes whatsoever.

2. It shall be lawful for the Commissioners of Woods, at their discretion, with the consent of the Treasury, to release, by licence or waiver in writing, any tenant or lessee or assignee of any lease of any lands or hereditaments, and whether part of the Land Revenues of the Crown or not, but which lands or hereditaments shall or may be subject to the management of the last-mentioned commissioners, from any covenant, condition, or agreement contained in any lease, agreement for a lease, or agreement for a yearly or other tenancy, either already made or granted, or hereafter to be made or granted, and whether any breach of such covenant or agreement shall have been committed or not, and either absolutely, or conditionally on such tenant, lessee, or assignee doing such act or acts, or entering into such other covenant or covenants, or agreement or agreements, or otherwise, as they the said commissioners shall think fit ; and any covenant or covenants, condition or conditions, or agreement or agreements, which shall be made or entered into by any such tenant, lessee, or assignee as aforesaid, in consideration of any such release as aforesaid, shall, so far as regards all rights, powers, and remedies of her Majesty, or of the Commissioners of Woods, for enforcing the performance thereof, or for re-entry for non-performance or non-observance thereof, be construed and taken as if the same were contained in the original lease or agreement for a lease, or other agreement, or otherwise, as shall be agreed on ; and all other covenants or agreements, and rights of re-entry, in any such lease or agreement, not released, shall in all respects continue and remain in force as if there had been no such release or waiver, and as may be agreed on ; and the provision herein contained shall apply to all leases or agreements already granted by any person or persons whomsoever, whether being part of the Land Revenues of the Crown or otherwise, so as the same shall at the time of any such licence, release, or waiver be under the management and control of the Commissioners of Woods ; and the aforesaid power may be exercised by the commissioner for the time being having under the order for the time being of the Treasury the management of the hereditaments comprised in any such lease or agreement ; and the provisions of the fifth section of the Crown Lands Act, 1845, shall apply (except as far as the same are hereby altered) to any licence or waiver granted under the authority of this Act.

Release of
Crown tenants
from covenants
in leases, &c.

8 & 9 Vict.
c. 99. s. 5.

Apportionment
of rents and
other pay-
ments.

3. In all cases where the Commissioners of Woods shall be satisfied that the owners or persons reputed to be owners of any lands or hereditaments in England or Wales charged with any fee farm or other rent, or annual, periodical, or other certain payment to her Majesty, either by express grant, prescription, or otherwise, have at any time heretofore mutually agreed or shall hereafter mutually agree to apportion such rent or other payment upon specific parts of the lands or hereditaments charged therewith, it shall be lawful for the said commissioners, if they shall think fit, by any writing, to make, confirm, and agree to such apportionment; and thereupon and thenceforth every apportioned part of such rent or payment shall become and be to all intents and purposes a rent or payment issuing out of the lands or hereditaments on or in respect of which the same is apportioned only, in like manner in all respects as the entire rent or payment was theretofore issuing out of the entirety of the lands or hereditaments charged therewith; and every such apportioned part shall be in all respects saleable as fee-farm rents or annual payments are now saleable; and any person entitled in possession to the rents and profits of any lands or hereditaments charged with any such rent or payment, either at law or in equity, either in fee, or tail for life, or for any interest other than under a lease at rackrent, and notwithstanding any mortgage or charge on such hereditaments, shall be taken and reckoned the owner for the purpose of joining in agreeing to any such apportionment of any such rent or payment as aforesaid, or in the confirmation of any apportionment made or agreed on; and thereupon such apportionment, when reduced into writing, to be signed by the persons agreeing thereunto, and confirmed or agreed to by the said commissioners as aforesaid, shall, after the enrolment in the Office of Land Revenue Records and Enrolments of any such writing as aforesaid, be valid and binding as against her Majesty, and all other persons; and the said enrolment shall be conclusive evidence that the provisions of this Act have been complied with; and the powers relating to the apportionment of such rents or payments hereby given to the Commissioners of Woods, may be exercised by the commissioners or commissioner for the time being having, under the order of the Treasury, the management of that part of the Land Revenues of the Crown which may include any rent or payment to be so apportioned.

Reference of
difficulties to
the Inclosure
Commis-
sioners.

4. Provided always, that in case there shall be any doubt as to the amount of the different parts of the rent or payment which may have been agreed to be apportioned, or as to the specific lands or hereditaments to be charged therewith, or as to the extent, identity, or boundaries of the lands or hereditaments charged with the entire or original rent or payment, or any part thereof, or if there shall be no person whom the said Commissioners or Commissioner of Woods as aforesaid shall agree to treat as owner under the aforesaid authority in that behalf, or in case any other difficulty shall arise in making any

apportionment of any such rent or payment as aforesaid which the Commissioners or Commissioner of Woods, as aforesaid may desire to apportion on specific parts of the lands or hereditaments charged therewith, then and in any of such cases the commissioners or commissioner aforesaid may, if they or he shall think fit, with the consent of the Commissioners of her Majesty's Treasury, to be signified by some warrant of such last-mentioned commissioners, from time to time, refer it to the Inclosure Commissioners for England and Wales to make such apportionment; and thereupon it shall be lawful for the said Inclosure Commissioners to make inquiry into the premises, and to make the apportionment accordingly; and any such reference, inquiry, or apportionment may be made as to any particular rent or payment as aforesaid, or to any number of such rents or payments; and their award under their seal relating thereto, when confirmed by some writing under the hands or hand of the said Commissioners or Commissioner of Woods, and enrolled in the Office of Land Revenue Records and Enrolments, shall be binding on all persons whomsoever, and have the same effect in all other respects as if the same had been made, agreed, confirmed, and enrolled under the provisions of the last section of this Act; and the enrolment of any such award shall be conclusive evidence that the provisions of this Act have been complied with: Provided always, that if in any case so as aforesaid referred to the aforesaid Inclosure Commissioners to make any such apportionment as aforesaid there shall in the opinion of the said commissioners be any doubt as to the extent, identity, or boundaries of the lands and hereditaments charged with any such rent or payment, then the said last-mentioned commissioners may appoint any assistant commissioner, or any other officer acting under the Inclosure Commissioners Act, 1851, or under the commissioners appointed by virtue of that Act, for the purpose of inquiring into and ascertaining such extent, identity, or boundaries, in all respects as the said commissioners are by the eighth section of the Inclosure Act, 1846, authorized to appoint an assistant commissioner; and the report of such assistant commissioner or other officer, if approved of by the said Inclosure Commissioners, shall be embodied in their award so to be made as aforesaid, and form part thereof.

14 & 15 Vict.
c. 53.

9 & 10 Vict.
c. 70. s. 8.

5. On any sale, exchange, enfranchisement, or other conveyance of her Majesty's woods, forests, lands, or hereditaments made by the said Commissioners of Woods, or either of them, in exercise of any power given to them in that behalf, the conveyance may be made subject to such provisoes for making the same void, or other conditions or provisions, as may be deemed expedient by the said commissioners or either of them.

Conveyances
may be made
subject to
discontinue
provisoos and
conditions.

6. It shall be lawful for the Commissioners of Woods, at any time or times, with the consent of the Treasury, to abandon or discontinue, either permanently or for any limited time, the

Power to
abandon or
discontinue
market tolls.

collection of any tolls or profits of any markets or fairs belonging to her Majesty, which it may be considered inexpedient to collect, and also, with such consent as aforesaid, by any deed or deeds, absolutely to relinquish and extinguish all or any such tolls or profits; and such power may be exercised by the commissioner for the time being having the management of the tolls or profits of any such market or fair by virtue of any such order of the Treasury.

Deposit of
duplicate
deeds in Office
of Land Re-
venue Records
in lieu of
enrolment.
10 Geo. 4.
c. 50.

7. All deeds and instruments relating to any manors, lordships, messuages, lands, tenements, or hereditaments in England or Wales, to which the Commissioners of Woods, or either of them, are or is parties or a party, or expressed to be parties or a party, and which under and by virtue of the provisions of the Crown Lands Act, 1829, or of any other Act, or any law, custom, or usage, ought to be enrolled in the Office of the Auditor of the Land Revenues of the Crown, or in the Office of Land Revenue Records and Enrolments, shall and may, if the said commissioners or commissioner who are or is, or are or is expressed to be, parties or a party thereto, shall think fit so to direct, be deemed to be fully and sufficiently enrolled by the deposit of a duplicate thereof in the office of Land Revenue Records and Enrolments, and the filing or making of an entry of such deposit by the Keeper of the said Records and Enrolments; and a certificate under the hand or purporting to be under the hand of the Keeper of the Land Revenue Records and Enrolments for the time being, endorsed or written on any such deed or instrument, shall be sufficient evidence that such duplicate has been deposited and the entry made or filed as aforesaid, and that the said Commissioners or Commissioner of Woods had directed that such deposit and entry should be sufficient enrolment as aforesaid, notwithstanding the provisions of the Crown Lands Act, 1851, or any other Act, law, custom, or usage; and it shall not be necessary to give evidence of the handwriting of the person signing any such certificate as aforesaid, or of the fact that such person is the Keeper of Land Revenue Records and Enrolments: Provided also, that it shall be lawful for the Treasury from time to time to regulate and to make such order as they may think fit concerning the fees to be paid for or in respect of any enrolment, or to direct that any such enrolment shall be made without payment of any fee.

14 & 15 Vict.
c. 42.

Certified copies
of documents
in Office of
Land Revenue
Records to be
admissible in
evidence.

8. Any copy of or extract from any deed, instrument, document, or writing, map or plan which now is or at any time hereafter shall be deposited in the Office of Land Revenue Records and Enrolments, shall at all times hereafter be admissible in evidence in any court of justice, or before any person now or hereafter having by law or by consent of parties authority to hear, receive, or examine evidence, in every case in which the original of or from which any such copy or extract shall purport to have been made would have been admissible in

evidence, provided such copy or extract be signed and certified, or purport to be signed and certified, by the Keeper of Land Revenue Records and Enrolments for the time being, as a true copy or extract; and it shall not be necessary to give evidence of the handwriting of any such signature or certificate, or of the fact that the person whose name is affixed thereto is the Keeper of the Land Revenue Records and Enrolments; provided that if any officer shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

[*Ss. 9, 10 are local and personal.*]

11. Notwithstanding the provisions of the Crown Lands (Scotland) Act, 1833, it shall not be necessary to register or record in the books kept in the Office of Chancery in Scotland any of the documents by the seventh section of the said Act directed to be registered or recorded; but a minute or memorandum of every such conveyance, deed, or other document describing the same shall be entered in the minute book of the Office of Chancery in Scotland; and the same shall be taken to be a sufficient compliance with the provisions of the said seventh section of the last-mentioned Act.

Entry of minutes of documents in Office of Chancery in Scotland to be sufficient compliance with 3 & 4 Will. 4. c. 69. s. 7.

CHAPTER LXIII.

AN ACT to amend the Laws relating to the Valuation of rateable Property in Ireland. [30th June 1852.]

[*Preamble recites 9 & 10 Vict. c. 110.*]

[*Ss. 1-9 rep. 38 & 39 Vict. c. 66. (S.I.R.) Ss. 1, 2 provided that the tenement valuation under recited Act was to be used for county assessments, subject to revision under this Act. S. 6 authorized the Lord Lieutenant to appoint a commissioner of valuation for the several counties. S. 7 authorized such commissioner to appoint valuers.*]

10. It shall and may be lawful for any Commissioner of Valuation to be appointed or continued under this Act, and for any valuers, surveyors, or other persons continued or appointed under this Act, from time to time to enter into and upon any tenements or hereditaments, for the purpose of making or carrying on any valuation or revision authorized by this Act: Provided always, that in every case in which it shall be necessary for any such commissioner, valuator, surveyor, or other person to enter any house, or any walled garden, or orchard or pleasure ground, and when the owner or occupier thereof shall oppose or refuse to allow such entry, such commissioner, valuator, surveyor, or other person shall give three days notice to

Commissioner and valuers, &c. may enter upon tenements for purpose of making valuation, &c.

the owner or occupier of such house, garden, orchard, or pleasure ground, requiring to be permitted to enter the same; and at any reasonable time after the delivery of such notice it shall be lawful to make such entry; such commissioner, valuator, surveyors, or other persons doing as little damage as may be in the execution of the powers to them granted by this Act, and making reasonable satisfaction (if required) to the owners of and other persons interested in any such tenements or hereditaments, gardens, orchards, or pleasure grounds, which shall or may be in any way hurt or damaged in or by the execution of any of the powers of this Act; and this Act shall be sufficient to indemnify such commissioner, valuator, surveyors, or other persons, and all persons acting in aid or under the orders of any of them, in the execution of this Act.

Tenements to be separately valued upon an estimate of the net annual value with reference to the prices of agricultural produce as herein specified.

11. In every valuation hereafter to be made, or to be carried on or completed under the provisions of this Act, the Commissioner of Valuation shall cause every tenement or rateable hereditament herein-after specified to be separately valued; and such valuation in regard to the land shall be made upon an estimate of the net annual value thereof with reference to the average prices of the several articles of agricultural produce herein-after specified, all peculiar local circumstances in each case being taken into consideration, and all rates, taxes, and public charges, if any, (except tithe rentcharge,) being paid by the tenant; (that is to say,)

Wheat at the general average price of seven shillings and sixpence per hundredweight of one hundred and twelve pounds:

Oats at the general average price of four shillings and tenpence per hundredweight of one hundred and twelve pounds:

Barley at the general average price of five shillings and sixpence per hundredweight of one hundred and twelve pounds:

Flax at the general average price of forty-nine shillings per hundredweight of one hundred and twelve pounds:

Butter at the general average price of sixty-five shillings and fourpence per hundredweight of one hundred and twelve pounds:

Beef at the general average price of thirty-five shillings and sixpence per hundredweight of one hundred and twelve pounds:

Mutton at the general average price of forty-one shillings per hundredweight of one hundred and twelve pounds:

Pork at the general average price of thirty-two shillings per hundredweight of one hundred and twelve pounds:

Such valuation in regard to houses, &c. to be made upon

And such valuation in regard to houses and buildings shall be made upon an estimate of the net annual value thereof; that is to say, the rent for which, one year with another, the same might

in its actual state be reasonably expected to let from year to year, the probable average annual cost of repairs, insurance, and other expences (if any) necessary to maintain the hereditament in its actual state, or rates, taxes, or public charges, if any, (except tithe rentcharge,) being paid by the tenant.

an estimate of the net annual value.

12. For the purposes of this Act the following hereditaments shall be deemed to be the rateable hereditaments: viz., all lands, buildings, and opened mines: all commons and rights of common, and all other profits to be had or received or taken out of any land: and in the case of land or buildings used exclusively for public, scientific, or charitable purposes, as herein-after specified, half the annual rent derived by the owner or other person interested in the same, so far as the same can or may be ascertained by the said Commissioner of Valuation; and all rights of fishery; all canals, navigations, and rights of navigation; all railways and tramroads; all rights of way and other rights or easements over land, and the tolls levied in respect of such rights and easements, and all other tolls: Provided always, that no turf bog or turf bank used for the exclusive purpose of cutting or saving turf, or for making turf mould therefrom, for fuel or manure, shall be deemed rateable under this Act, unless a rent or other valuable consideration shall be payable for the same: And provided also, that no mines which have not been opened seven years before the passing of this Act shall be deemed rateable until the term of seven years from the time of opening thereof shall have expired; and no mines hereafter to be opened shall be deemed rateable until seven years after the same shall have been opened: and mines bonâ fide re-opened after the same shall have been bonâ fide abandoned shall be deemed an opening of mines within the meaning of this Act.

What hereditaments are rateable.

[S. 13 *rep.* 23 & 24 *Vict. c. 4. s. 13.*]

14: No hereditament or tenement shall be liable to be rated in respect of any increase in the value thereof arising from any drainage, reclamation, or embankment from the sea or any lake or river, or any erection of farm, outhouse, or office buildings, or any permanent agricultural improvement as specified under the provisions of the Landed Property Improvement (Ireland) Act, 1847, section four, made or executed thereon within seven years next before the making of such valuation or revision.

Valuation not to be increased on account of improvements under 10 & 11 *Vict. c. 32. s. 4. &c.*

[S. 15 (*requiring the Commissioner to distinguish all hereditaments of a public nature, or used for charitable purposes, or for purposes of science, literature, and fine arts, as specified in 6 & 7 Vict. c. 36; and providing that the same should be exempt from assessment*) *rep.* 17 & 18 *Vict. c. 8. s. 1.*]

16. For the purposes of such valuation, no hereditaments or tenements, or portions of the same, shall be deemed to be of a public nature, or used for such charitable, scientific, or other purposes as herein-before specified, within the meaning of this Act, unless such hereditaments or tenements, or portions of the

No hereditaments to be deemed of a public nature, &c. unless so altogether and exclusively.

same respectively, shall be altogether of a public nature, or used exclusively for such charitable, scientific, or other purposes aforesaid; and the valuations or exemptions in such cases shall be subject to such and the like appeals against the same as are herein-after provided as to valuations in other cases.

Lists of valuation to be sent to treasurers of counties, clerks to guardians, and town councils.

17. When and so soon as the valuation or revision of valuation of all the hereditaments and tenements within any county, barony, or poor law union, county of a city, county of a town, shall be completed, the Commissioner of Valuation shall prepare and make out a list or table of the several hereditaments and tenements contained in each townland or other denomination therein, and of their respective valuations, signed by him the Commissioner of Valuation; and the said Commissioner of Valuation shall transmit a sufficient number of printed or written copies of such lists, so signed by him, ~~to the treasurer of the county, and to the clerk of the board of guardians of each union in which the hereditaments and tenements contained in such schedule are situate, and to the town council of any city, borough, or town interested therein.~~

L.R. 1954.
Clerks of boards of guardians to publish notices stating when and where lists may be inspected, &c.

18. Every clerk of any board of guardians to whom copies of any such lists shall be transmitted as aforesaid shall, within three days after the receipt of such lists, cause to be affixed a notice on the principal outer door or gate pier of the church, and of any one Roman Catholic chapel, and of any one Presbyterian meeting house, if any, within every parish or part of a parish (included in the union) in which any hereditaments or tenements contained in such list are situate, stating the time at which said lists were so transmitted, and the time and place at which said lists may be inspected, and shall, at all reasonable hours on every day, from and after the receipt of said lists, for twenty-one days then next ensuing, leave open for public inspection at the workhouse of the union, and at the station of each party of constabulary, if any, situate within any such parish, copies of the said lists, and shall permit extracts to be taken therefrom at all reasonable times as aforesaid: Provided always, that in all cases in which no clerk shall have been appointed to the board of guardians of any union, it shall be lawful for the Commissioners for administering the Laws for the Relief of the Poor in Ireland to appoint a person to act in his stead.

Complaint by person aggrieved in respect of valuation.

19. Within twenty-eight days from and after the receipt of the said lists by the clerk of any union as aforesaid any person aggrieved by reason of the valuation of any tenement or rateable hereditament, or by reason of any inaccurate statement of area or inaccurate description of any tenement or rateable hereditament, contained in such lists, or any other cause whatsoever, shall send by post or deliver to the clerk of the board of guardians of the union in which such hereditament or tenement is situate a notice in writing, duly signed by him the said person aggrieved, or by his known agent, setting forth the

grounds of such grievance; and the said clerk of the board of guardians shall forthwith forward said notice to the Commissioner of Valuation at the office in Dublin of the general valuation of Ireland.

20. The said Commissioner of Valuation shall, on receipt of every such notice as aforesaid, inquire into the subject matter thereof, and, if necessary, direct a valuator or surveyor, as the case may require, who shall not have been previously employed in making the original valuation contained in the lists as aforesaid, to view such hereditament or tenement, and investigate the complaint stated in such notice, and report thereon to the said Commissioner of Valuation; and should it appear to him the said Commissioner of Valuation from such report that the valuation or statement of the area of the tenement or rateable hereditament referred to in any of such notices requires amendment, the Commissioner of Valuation shall have power to alter and amend the valuation or statement of the area of the tenement or rateable hereditament so appealed against, and also to alter and amend the valuation or statement of the area of any other tenement or hereditament against which there shall have been no appeal, but which may appear to him to be similarly circumstanced with those respecting which appeals have been made, in order to render the valuation of every tenement or hereditament comprised in such list proportionate and uniform.

Powers of Commissioner to deal with such complaint.

21. The Commissioner of Valuation shall make out and sign a statement of all cases in every townland or other denomination in which he shall have so altered or refused to alter the valuation or statement of the area of any tenement or hereditament, or otherwise amended the same as aforesaid, and shall transmit such list, so signed, to the clerk of the board of guardians of the union in which such tenements are situate, who shall, within three days after the receipt of said lists, make the same public, by notices, in the same manner as herein-before provided as to the publication of the primary valuation of tenements.

Commissioner to prepare and transmit statement of cases in which he shall have altered or refused to alter valuation, &c.

22. At any time within twenty-one days after the receipt of the said last-mentioned lists in the form as aforesaid by the clerk of the board of guardians, any person aggrieved by the valuation of any tenement or tenements contained in said list, and desiring to appeal therefrom, shall send or deliver to the clerk of the board of guardians a notice in writing, duly signed by him the said person aggrieved, or by his known agent, of his intention to appeal to the next general or quarter sessions of the peace for the division of the county, or for the county of a city or county of a town, in which said tenement or rateable hereditament may be situate, stating the ground of such appeal; but in case the next general or quarter sessions as aforesaid shall commence within forty days after the receipt of the said last-mentioned lists as aforesaid by the clerk of the board of guardians, such appeal shall be made to the succeeding general

Appeal to quarter sessions from the valuation.

If appeal affects the valuation of other tenements, notice to be given to persons interested.

or quarter sessions as aforesaid; and the said clerk of the board of guardians of the union in which such property is situate shall forthwith forward the said notice to the Commissioner of Valuation, who shall be the respondent in the said appeal; and the clerk of the board of guardians shall cause a list of all such notices of appeal, with the names of the appellants and of the lands which are the subject of appeal, to remain open for inspection at the workhouse of the union; and if the cause of appeal shall be such as to require alteration to be made in the valuation of any tenement for which any other person or persons is or are liable to be rated, the appellant shall give like notice to such other person or persons, who shall, if he or they so desire, be heard upon such appeal; and within five days after notice given of any such appeal the person appealing shall enter into a recognizance in the sum of five pounds before some justice of the peace, with sufficient securities, conditioned to try such appeal at the general or quarter sessions of the peace for which such notice shall have been given, and to abide the order of and to pay such costs as shall be awarded by the court at such sessions; and within three days after such recognizance shall have been entered into, the magistrate before whom such recognizance shall have been entered, or clerk of the petty sessions, shall send the same by post, or shall forward the same to the office of the clerk of the peace for the respective county or place, there to remain of record, and open for public inspection, without payment of any fees.

Decision of quarter sessions on appeal to be final.

23. The court before which any such appeal shall be brought as aforesaid is hereby empowered and required to hear and determine the matter of such appeal as stated in such notice of appeal, but not any other cause or matter of appeal, and to hear all parties who may be, directly or indirectly, interested in the cause of such appeal, and to make such order therein as to such court shall seem fit, and to award such costs to the party appealing or appealed against, or to any other party who shall be brought before the said court on the hearing of such appeal, whether the appellant shall prosecute such appeal or not, or shall appear at the hearing or not, as the said court shall think proper; and upon the hearing of any such appeal the said last-mentioned lists of valuation, signed by the Commissioner of Valuation, shall be deemed to be *prima facie* evidence of the correctness of the valuations contained therein, till the contrary be shown to the court; and the determination of the said court in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever: Provided always, that if the costs of such appeal shall be awarded against the Commissioner of Valuation, such costs, when paid by such commissioner, together with the necessary costs incurred by such commissioner in defending such appeal, shall be deemed to be and charged as part of the expences of the valuation

Costs.

24. The guardians of the poor of the union shall, out of any funds under their control, pay to the clerk of the guardians, or other person appointed in his stead, the reasonable expences which he shall have incurred in the execution of this Act.

Expences of clerk of guardians under this Act.

[S. 25 (*Commissioner, on completion of valuation, to cause a final list to be printed, and send copies to clerks of boards of guardians, town councils, and treasurers of counties*) rep. 38 & 39 *Vict. c. 66.* (*S.L.R.*)]

26. From and after the commencement of the summer assizes next ensuing the day on which such final lists of the valuation of any county shall be received by the treasurer of such county, all county or grand jury rates and assessments then and thereafter made, presented, or ordered in or for such county, or any townland therein, shall be levied within the respective townlands or townland, as the case may be, and on such tenements and hereditaments therein, according to the valuations contained in such final lists, and upon no other, until the same shall be revised in the manner herein-after mentioned: . . .

The county rates to be levied according to such final lists of valuation.

27. Every rate for the relief of the destitute poor in every union which shall be made after thirty days from the time when the board of guardians of such union shall have received such final lists of the valuation of all the townlands comprised in such union, and every rate made by any town council within such union, shall be made upon the hereditaments and tenements liable thereto according to the valuation of each hereditament or tenement comprised in such lists so signed and transmitted as aforesaid by the Commissioner of Valuation, until the same shall be revised in the manner herein-after mentioned: . . .

Poor rates and rates by town councils to be made according to such final lists of valuation.

28. So much of the Poor Relief (Ireland) Act, 1838, or of any Act or Acts amending the same, as may authorize the court, on appeal being made thereto, at any general or quarter sessions, to amend, alter, or quash any rate, on the ground of the net annual value assigned therein to any tenement or rateable hereditament, shall not extend to or apply to any rate for the relief of the destitute poor made and assessed on such tenement or rateable hereditament in conformity with the valuation thereof signed by the Commissioner of Valuation as aforesaid.

So much of 1 & 2 *Vict. c. 56.*, &c. as authorizes amendment, &c. of rates on account of value, shall not apply to any poor rate made in conformity with valuation.

[Ss. 29, 30 rep. 17 & 18 *Vict. c. 8. s. 1.* S. 29 *authorized boards of guardians to send lists of tenements requiring revision to the Commissioner of Valuation. S. 30 required the Commissioner on receipt of such list to cause a revision to be made and to prepare and sign a list of the tenements so revised and transmit the same to the guardians, the town council of the borough, and the treasurer of the county.*]

31. The owners or occupiers of all tenements the area or valuation of which shall have been altered as last aforesaid in the list signed by the Commissioner of Valuation shall have the

Persons may appeal against such revision, in manner

herein-before
provided.

same powers of appeal to the Commissioner of Valuation and to the quarter sessions, subject to the same conditions and provisions, and exercised in the same manner and to the same extent, as herein-before provided in regard to appeal: Provided always, that such total valuation of lands as last aforesaid of any townland shall not be increased or lessened at the hearing of any such appeal as aforesaid: Provided also, that when all the appeals, if any, so taken, shall have been heard and finally determined or disposed of in manner herein-before provided, the Commissioner of Valuation shall make out and transmit lists in the form as aforesaid of the tenements and properties so finally revised to the guardians of the poor of the union, and to the town council of the borough, and to the treasurer of the county, in which respectively such tenements and properties are situate.

Rates to be
made in
boroughs and
unions accord-
ing to the
value in revised
list.

32. In every rate to be made after thirty days from the receipt of such last-mentioned finally revised list of tenements or hereditaments in each year by the board of guardians of any union, or town council, the tenements or hereditaments included in the said list shall be rated according to the value thereof as set forth in the said list, in place of that specified in any former lists, until the same shall again be revised from time to time in the manner herein-before last mentioned.

County rates
to be levied
according to
revised list.

33. And from and after the commencement of the summer assizes next ensuing the day on which such finally revised lists of the valuation of any county or barony in each year shall be received by the treasurer of such county, all grand jury or county assessments and rates shall be levied within the several townlands, and on such tenements and hereditaments therein, according to the valuations contained in such lists, in place of those specified in any former lists, until the same shall again be revised from time to time in the manner herein-before last mentioned.

A new valuation
may be
made of every
county four-
teen years
after former
valuation, &c.
9 & 10 Vict.
c. 110.

34. And for the purpose of providing for the necessary revision of the valuation of the land in consequence of changes that may have taken place in the gross amount of the value of the several townlands from time to time, be it enacted, that at or after the termination of fourteen years from the period of the final completion of the first general tenement valuation of any poor law union, county, or barony, under the Act of the ninth and tenth years of her present Majesty, chapter one hundred and ten, or under this Act, it shall be lawful for the Lord Lieutenant on application by the grand jury of the county, if he shall think fit so to do, to direct the Commissioner of Valuation to make a general revision of the valuation of any such poor law union, county, or barony, and so from time to time at or after the expiration of every subsequent period of fourteen years from the final completion of the preceding general revision of the valuation to cause a new revision to be made, and upon each such occasion to cause notice to be given to the grand jury of such

county, county of a city or county of a town, previous to such direction, by letter from the chief secretary, addressed to the secretary of the grand jury of such county, county of a city or county of a town, and also notice to be given to the clerks of the boards of guardians of the several unions or parts of unions contained within such county; and the said commissioner shall proceed therein as in the first general valuation or general revision of valuation of any county which may have been made under the provisions of this Act; and the grand jury of the said county, county of a city or county of a town, and all officers thereof, and every public officer or other person duly authorized, shall perform all acts required to be done by them or him in the same manner and within the same periods as herein-before is provided for the first general valuation or general revision of valuation of the said county, county of a city or county of a town, and shall have the same powers, privileges, and immunities in the performance of their respective duties; and the said new valuation, when completed, shall have the same effect and operation, to all intents and purposes, as the former general valuation or general revision of valuation, and shall supersede the same; and that which is hereby enacted in relation to such first general valuation or general revision of valuation, and the several proceedings relating thereto, and all matters connected therewith, shall apply in due course and under the same circumstances and conditions to such revision of the valuation to be made from time to time as aforesaid: . . .

35. And for the purpose of determining the contents of tenements from the detail afforded by the Ordnance Survey of Ireland, be it enacted, that in all revisions of the valuation the latest revised publication of any of the plans of such ordnance survey shall be used by the valuers or surveyors employed in that behalf.

Use of Ordnance Survey plans in revision.

[*Ss. 36-40 rep. 37 & 38 Vict. c. 70. s. 4.*]

41. If any clerk to any board of guardians, clerk of the peace, secretary of a grand jury, ~~treasurer of a county~~, town clerk, or any valuator appointed by the Commissioner of Valuation, or other person or persons, shall omit or neglect or refuse to do any matter or thing which any such person is by this Act required and directed to do in the execution of this Act, or if any person shall wilfully obstruct, hinder, or prevent any person acting in the execution of this Act, every person so offending shall forfeit a sum not exceeding ten pounds, in the discretion of the justices before whom such offender shall be convicted.

Penalty for neglect of duty, S. 19, obstruction, &c.

42. All penalties and forfeitures inflicted or imposed by this Act may be sued for and recovered in a summary way by the order and adjudication of any justice or justices of the peace at petty sessions, under and subject to the several provisions and

Recovery of penalties.

14 & 15 Vict.
c. 93.

regulations relating to summary jurisdiction contained in the Petty Sessions (Ireland) Act, 1851, and shall be applied in the manner by the said Act directed.

Proceedings
for conviction
of offenders
not to be
quashed for
want of form,
&c.

43. No proceedings to be had touching the conviction of any offender or offenders against this Act shall be quashed for want of form, nor be removed nor removable by certiorari, or any other writ or process whatsoever, into any of her Majesty's courts of record at Dublin; and where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the summons or conviction, or in the warrant of distress or other proceedings relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers ab initio on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action on the case; but no plaintiff or plaintiffs shall recover in any action for such irregularity as aforesaid, if tender of sufficient amends hath been made, by or on behalf of the party distraining, before such action commenced.

[S. 44 *rep.* 57 & 58 Vict. c. 56. (S.L.R.)]

Interpretation
of terms.

9 Geo. 4. c. 82.

45. In the construction of this Act, unless there be anything in the subject or context repugnant to such construction, the word "inhabitant" shall include every one rated to the grand jury cess; the words "town council" and "council" shall include "town commissioners" under the Lighting of Towns (Ireland) Act, 1828, or any trustees or other body empowered by law to make local assessments; "clerk of the guardians" and "clerk" shall be understood to mean and include clerk of the board of guardians of the poor of the union, or other person appointed to act or acting in his stead; and the word "assizes" shall include "presenting term"; ~~and the word "treasurer" shall include "finance committee";~~ and all provisions and directions in this Act contained relating to counties shall extend to all counties, counties of cities, counties of towns, and towns corporate in Ireland; and all the acts and duties by this Act required to be performed by the several grand juries at the assizes for any county shall and may, in the county of Dublin, be performed at the presenting terms by the grand jury of the said county duly met and impanelled, and in the county of the City of Dublin by the council of the borough of Dublin; and all provisions and directions relating to baronies shall extend to half baronies, and to all other divisions of counties being greater than parishes, and in reference to any county of a city or county of a town shall be deemed to mean and refer to such

county of a city or county of a town; and all provisions and directions relating to parishes shall extend to all chapelries or divisions of parishes or extra-parochial divisions; and all provisions and directions relating to townlands shall extend to all divisions and sub-denominations of lands less than and being comprised within any parish; and the word "tenements" shall include rateable hereditaments; and the word "houses" shall include buildings; and the word "towns" shall include cities; and where any parish or union shall be situate in more than one county or barony, or partly in a county and partly in a county of a city, county of a town, or town corporate, the several parts of such parish shall be valued as a distinct parish in the several baronies or counties, or counties of cities or counties of towns, or towns corporate, to which they shall contribute to the payment of any county cess charges or grand jury rate.

[S. 46 *rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

47. [*Recital of* 7 & 8 *Vict. c.* 106. s. 98.] It shall be lawful for the finance committee of the said county of Dublin, in making their apportionment of all charges under the County Dublin Grand Jury Act, 1844, to apportion, declare, and strike all county, baronial, or parochial charges imposed by grand jury presentments by a poundage rate upon each barony, parish, or denomination in the said county of Dublin, according to the valuation thereof contained in such printed list; and all apportionments to be made under and in pursuance of any warrants issued by the finance committee of said county shall be made by a poundage rate upon the several tenements and hereditaments in such barony, parish, or denomination, according to the valuation thereof contained in such printed list: Provided always, that in making the poundage rate it shall not be necessary for the finance committee to adopt or take into account any smaller fraction than one fourth part of a penny in the pound, neither shall any rate so made be vitiated or impugned by reason of its exceeding the sum authorized by presentments to be raised, if the excess shall have been created by such fractions of not more than one fourth of a penny in the pound.

Apportionment of county, baronial, and parochial charges by a poundage rate, &c.

7 & 8 *Vict. c.* 106.

48. Nothing in this Act contained shall repeal the provisions in the Towns Improvement Clauses Act, 1847, or in any Act incorporating the same, relative to the management of streets, or the liability to grand jury cess, or other payment in respect of making or repairing roads.

Saving of certain Acts.
10 & 11 *Vict. c.* 34.

[*Sched. rep.* 38 & 39 *Vict. c.* 66. (S.L.R.)]

CHAPTER LXXII.

AN ACT to grant a Representative Constitution to the Colony of New Zealand.^[1] [30th June 1852.]

[*Preamble recites 3 & 4 Vict. c. 62. s. 2; Letters Patent 16 Nov., 1840*^[2]; 9 & 10 Vict. c. 103; 11 & 12 Vict. c. 5.]

[*Ss. 1-31 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Establishment
of a General
Assembly.

32. There shall be within the colony of New Zealand a General Assembly, to consist of the Governor, a Legislative Council, and House of Representatives.

[*Ss. 33, 35-39 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 34 rep. 56 & 57 Vict. c. 14. (S.L.R.) These sections provided for the constitution of the Legislative Assembly, as to which see now the Acts of the New Zealand Legislature.*]

Summoning
of a House
of Representa-
tives by pro-
clamation.

40. For the purpose of constituting the House of Representatives of New Zealand it shall be lawful for the Governor . . . from time to time as occasion shall require, by proclamation in her Majesty's name, to summon and call together a House of Representatives in and for New Zealand. . .

[*Ss. 41-43 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Time and place
of holding the
General
Assembly.

44. The General Assembly of New Zealand shall be holden at any place and time within New Zealand which the Governor shall from time to time by proclamation for that purpose appoint; . . . and the Governor may at his pleasure prorogue or dissolve the General Assembly.

[*S. 45 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Oath of
allegiance.

46. No member of the said Legislative Council or House of Representatives shall be permitted to sit or vote therein until he shall have taken and subscribed the following oath before the Governor, or before some person or persons authorized by him to administer such oath :

‘I A.B. do sincerely promise and swear, that I will be faithful and bear true allegiance to her Majesty Queen Victoria.

‘So help me GOD.’

[¹ This Act. is rep. by 25 & 26 Vict. c. 48. s. 6, and by 31 & 32 Vict. c. 57. s. 1, as to so much as is inconsistent with those Acts.]

[² By these Letters Patent the islands of New Zealand were erected into a separate colony under the following description:—“The islands of New Zealand, heretofore “comprised within or dependencies of the said colony of New South Wales, with all “other islands lying between thirty-four degrees thirty minutes north to the forty- “seventh degree ten minutes south latitude, and between the one hundred and sixty- “sixth degree five minutes to the one hundred and seventy-ninth degree of east “longitude, reckoning from the meridian of Greenwich.”]

47. Every person authorized by law to make his solemn affirmation or declaration instead of taking an oath may make such affirmation or declaration in lieu of the said oath.

Affirmation or declaration instead of oath.

48. The said House of Representatives shall immediately on their first meeting proceed to the choice of one of their members as their Speaker during the continuance of the said House; which choice, being confirmed by the Governor, shall be valid and effectual; and in case of vacancy of the office by death, resignation, or otherwise, then and so often as the same shall happen, the choice shall be repeated and confirmed as aforesaid.

Election of Speaker of House of Representatives.

[*Ss. 49–52 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 52 empowered the Legislative Council and House of Representatives to make Standing Rules and Orders.*]

53. It shall be competent to the said General Assembly (except and subject as herein-after mentioned) to make laws for the peace, order, and good government of New Zealand, provided that no such laws be repugnant to the law of England; and the laws so to be made by the said General Assembly shall control and supersede any laws or ordinances in anywise repugnant thereto, which may have been made or ordained prior thereto by any provincial council; and any law or ordinance made or ordained by any provincial council in pursuance of the authority hereby conferred upon it, and on any subject whereon under such authority as aforesaid it is entitled to legislate, shall, so far as the same is repugnant to or inconsistent with any Act passed by the General Assembly, be null and void.

Power of General Assembly to make laws.

54. It shall not be lawful for the House of Representatives or the Legislative Council to pass, or for the Governor to assent to, any bill appropriating to the public service any sum of money from or out of her Majesty's revenue within New Zealand, unless the Governor on her Majesty's behalf shall first have recommended to the House of Representatives to make provision for the specific public service towards which such money is to be appropriated; and (save as herein otherwise provided) no part of her Majesty's revenue within New Zealand shall be issued except in pursuance of warrants under the hand of the Governor directed to the Public Treasurer thereof.

Appropriation and issue of money.

55. It shall and may be lawful for the Governor to transmit by message to either the said Legislative Council or the said House of Representatives for their consideration the drafts of any laws which it may appear to him desirable to introduce; and all such drafts shall be taken into consideration in such convenient manner as shall in and by the rules and orders aforesaid be in that behalf provided.

Governor may transmit drafts of laws to either House.

56. Whenever any bill which has been passed by the said Legislative Council and House of Representatives shall be presented for her Majesty's assent to the Governor, he shall declare according to his discretion, but subject nevertheless to the

Governor may assent to, refuse assent to, or reserve bills.

provisions contained in this Act and to such instructions as may from time to time be given in that behalf by her Majesty, that he assents to such bill in her Majesty's name, or that he refuses his assent to such bill, or that he reserves such bill for the signification of her Majesty's pleasure thereon: Provided always, that it shall and may be lawful for the Governor, before declaring his pleasure in regard to any bill so presented to him, to make such amendments in such bill as he thinks needful or expedient, and by message to return such bill with such amendments to the Legislative Council or the House of Representatives, as he shall think the more fitting; and the consideration of such amendments by the said Council and House respectively shall take place in such convenient manner as shall in and by the rules and orders aforesaid be in that behalf provided.

Governor to conform to instructions transmitted by her Majesty.

57. It shall be lawful for her Majesty, with the advice of her Privy Council, or under her Majesty's Signet and Sign Manual, or through one of her Principal Secretaries of State, from time to time to convey to the Governor of New Zealand such instructions as to her Majesty shall seem meet, for the guidance of such Governor, for the exercise of the powers hereby vested in him of assenting to or dissenting from or for reserving for the signification of her Majesty's pleasure bills to be passed by the said Legislative Council and House of Representatives; and it shall be the duty of such Governor to act in obedience to such instructions.

Disallowance by her Majesty of bills assented to by the Governor.

58. Whenever any bill which shall have been presented for her Majesty's assent to the Governor shall by such Governor have been assented to in her Majesty's name, he shall by the first convenient opportunity transmit to one of her Majesty's Principal Secretaries of State an authentic copy of such bill so assented to; and it shall be lawful, at any time within two years after such bill shall have been received by the Secretary of State, for her Majesty, by order in council, to declare her disallowance of such bill; and such disallowance, together with a certificate under the hand and seal of the Secretary of State certifying the day on which such bill was received as aforesaid, being signified by the Governor to the said Legislative Council and House of Representatives by speech or message, or by proclamation in the Government Gazette, shall make void and annul the same from and after the day of such signification.

No reserved bill to have any force until assented to by her Majesty, &c

59. No bill which shall be reserved for the signification of her Majesty's pleasure thereon shall have any force or authority within New Zealand until the Governor shall signify, either by speech or message to the said Legislative Council and House of Representatives, or by proclamation, that such bill has been laid before her Majesty in council, and that her Majesty has been pleased to assent to the same; and an entry shall be made in the journals of the said Legislative Council and House of Repre-

sentatives of every such speech, message, or proclamation; and a duplicate thereof, duly attested, shall be delivered to the registrar of the supreme court, or other proper officer, to be kept among the records of New Zealand; and no bill which shall be so reserved as aforesaid shall have any force or authority within New Zealand, unless her Majesty's assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such bill shall have been presented for her Majesty's assent to the Governor as aforesaid.

[S. 60 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

61. It shall not be lawful for the said General Assembly to levy any duty upon articles imported for the supply of her Majesty's land or sea forces, or to levy any duty, impose any prohibition or restriction, or grant any exemptions, bounty, drawback, or other privilege upon the importation or exportation of any articles, or to impose any dues or charges upon shipping, contrary to or at variance with any treaty or treaties concluded by her Majesty with any foreign power.

Duties not to be levied on supplies for troops; nor any dues, &c. inconsistent with treaties.

[Ss. 62, 63 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

64.^[1] There shall be payable to her Majesty, every year, out of the revenue arising from such taxes, duties, rates, and imposts, and from the disposal of such waste lands of the Crown in New Zealand, the several sums mentioned in the schedule to this Act; such several sums to be paid for defraying the expences of the services and purposes mentioned in such schedule, and to be issued from time to time directed to him under the hand and seal of the Governor; . . .

Grant of sums mentioned in schedule for civil and judicial services.

65.^[1] It shall be lawful for the General Assembly of New Zealand, by any Act or Acts, to alter all or any of the sums mentioned in the said schedule, and the appropriation of such sums to the services and purposes therein mentioned; but every bill which shall be passed by the said Legislative Council and House of Representatives altering the salary of the Governor, or altering the sum described as for native purposes, shall be reserved for the signification of her Majesty's pleasure thereon; and until and subject to such alteration by Act or Acts as aforesaid the salaries of the Governor and judges shall be those respectively set against their several offices in the said schedule; and accounts in detail of the expenditure of the several sums for the time being appropriated under this Act, or such Act or Acts aforesaid of the said General Assembly, to the several services and purposes mentioned in the said schedule, shall be laid before the said Legislative Council and House of Representatives within thirty days next after the beginning of the session after such

Alteration of sums mentioned in schedule.

[¹ The sums mentioned in the schedule to this Act have been altered by the New Zealand Legislature in pursuance of s. 65.]

expenditure shall have been made: Provided always, that it shall not be lawful for the said General Assembly, by any such Act as aforesaid, to make any diminution in the salary of any judge to take effect during the continuance in office of any person being such judge at the time of the passing of such Act.

Appropriation
of revenue.

66. After and subject to the payments to be made under the provisions herein-before contained, all the revenue arising from taxes, duties, rates, and imposts levied in virtue of any Act of the General Assembly, . . . shall be subject to be appropriated to such specific purposes as by any Act of the said General Assembly shall be prescribed in that behalf; . . .

[*Ss. 67-69 rep. 20 & 21 Vict. c. 53. s. 1. S. 70 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

71. And whereas it may be expedient that the laws, customs, and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves, in all their relations to and dealings with each other, and that particular districts should be set apart within which such laws, customs, or usages should be so observed:

Provision as
to native laws
and customs.

It shall be lawful for her Majesty, by any letters patent to be issued under the Great Seal of the United Kingdom, from time to time to make provision for the purposes aforesaid, any repugnancy of any such native laws, customs, or usages to the law of England, or to any law, statute, or usage in force in New Zealand, or in any part thereof, in anywise notwithstanding.

General As-
sembly may
regulate sales,
&c. of waste
lands.

10 & 11 Vict.
c. 112.

72. Subject to the provisions herein contained, it shall be lawful for the said General Assembly to make laws for regulating the sale, letting, disposal, and occupation of the waste lands of the Crown in New Zealand; and all lands wherein the title of natives shall be extinguished as herein-after mentioned, and all such other lands as are described in an Act of the session holden in the tenth and eleventh years of her Majesty, chapter one hundred and twelve, to promote colonization in New Zealand, and to authorize a loan to the New Zealand Company, as demesne lands of the Crown, shall be deemed and taken to be waste lands of the Crown within the meaning of this Act: . . .

[*Ss. 73, 75-79 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 74 rep. 20 & 21 Vict. c. 53. s. 1.*]

Interpretation
of "Governor."

80. In the construction of this Act the term "Governor" shall mean the person for the time being lawfully administering the government of New Zealand; . . .

[*S. 81 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

82. The proclamation of this Act, and all proclamations to be made under the provisions thereof, shall be published in the New Zealand Government Gazette. Proclamations to be published.

[*Sched. rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

CHAPTER LXXIII.

AN ACT to make Provision for a permanent Establishment of Officers to perform the Duties at Nisi Prius, in the Superior Courts of Common Law, and for the Payment of such Officers and of the Judges Clerks by Salaries, and to abolish certain Offices in those Courts. [30th June 1852.]

[*Preamble.*]

[*Whole Act, except ss. 11, 26 rep. 42 & 43 Vict. c. 78. s. 29.*]

11. No person holding the office of associate in the Courts of Queen's Bench, Common Pleas, and Exchequer, or the appointment of judges clerks, or of clerk in any of the offices of the Superior Courts, shall, either directly or indirectly, act as a barrister, attorney, or solicitor, or as agent of any attorney or solicitor, in any court of law or equity in the United Kingdom, either separately or in partnership with any other, during such time as he shall hold such office of associate, or act as such clerk: . . . Associates and clerks not to act as barristers, attorneys, or agents.

* * * * *

26. If any officer of the said courts, or any clerk appointed or to be appointed under or by virtue of this Act, or any person whatever employed in the offices of the said courts, shall, for anything done or pretended to be done relating to his office or employment, or under colour of doing anything relating to his office or employment, or for forbearing to do any act properly appertaining to his said office, demand, take, receive, or accept, or allow any person whatsoever to take for him, or on his account, or for or on account of or in trust for him or any other person named by him, any gratuity, perquisite, or reward, or anything of value, other than the salary or remuneration allowed or to be allowed to every such officer, clerk, or person aforesaid, he shall forfeit a sum of fifty pounds, to be recovered by action of debt at the suit of her Majesty's Attorney General; and upon judgment being recovered therein he shall be incapable of any longer holding his office or employment. Officers and clerks not to receive gratuities.

* * * * *

CHAPTER LXXVI.

AN ACT to amend the Process, Practice, and Mode of Pleading in the Superior Courts of Common Law at Westminster, and in the Superior Courts of the Counties Palatine of Lancaster and Durham.^[1] [30th June 1852.]

[*Preamble.*]

Jury and jury process. [Ss. 1-22, 24-104 *rep.* 46 & 47 *Vict. c.* 49. s. 3. S. 23 *rep.* 52 & 53 *Vict. c.* 10. s. 12.]

Precept by judges of assize to summon jurors for civil as well as criminal trials.

A printed panel to be prepared, and annexed to the record.

Sheriffs of London and Middlesex to summon common jurors, and prepare a panel, to be annexed to the record, &c.

"

Special jurors, not exceeding forty-eight in

105. The precept issued by the judges of assize to the sheriff to summon jurors for the assizes shall direct that the jurors be summoned for the trial of all issues, whether civil or criminal, which may come on for trial at the assizes; and the jurors shall thereupon be summoned in like manner as at present.

106. A printed panel of the jurors summoned shall, seven days before the commission day, be made by the sheriff, and kept in the office for inspection; and a printed copy of such panel shall be delivered by the sheriff to any party requiring the same, on payment of one shilling; and such copy shall be annexed to the *nisi prius* record.

107. The sheriffs of London and Middlesex respectively shall, pursuant to a precept under the hand of a judge of any of the said superior courts, and without any other authority, summon a sufficient number of common jurors for the trial of all issues in the Superior Courts of Common Law, in like manner as before this Act; and seven days before the first day of each sittings a printed panel of the jurors so summoned for the trial of causes at such sittings shall be made by such sheriffs, and kept in their offices for public inspection; and a printed copy of such panel shall be delivered by the said sheriffs to any party requiring the same, on payment of one shilling; and such copy shall be annexed to the *nisi prius* record; and the said precept shall and may be in like form as the precept issued by the judges of assize, and one thereof shall suffice for each term, and for all the superior courts; and it shall be the duty of the sheriffs respectively to apply for and procure such precept to be issued in sufficient time before each term to enable them to summon the jurors in manner aforesaid; and it shall be lawful for the several courts, or any judge thereof, at any time to issue such precept or precepts to summon jurors for disposing of the business pending in such courts, and to direct the time and place for which such jurors shall be summoned, and, all such other matters as to such judge shall seem requisite.

108. The precept issued by the judges of assize as aforesaid shall direct the sheriff to summon a sufficient number of special jurymen, to be mentioned therein, not exceeding forty-eight

[¹ Short title, "The Common Law Procedure Act, 1852." See s. 235.]

in all, to try the special jury causes at the assizes; and the persons summoned in pursuance of such precept shall be the jury for trying the special jury causes at the assizes, subject to such right of challenge as the parties are now by law entitled to; and a printed panel of the special jurors so summoned shall be made, kept, delivered, and annexed to the nisi prius record, in like time and manner and upon the same terms as herein-before provided with reference to the panel of common jurors; and upon the trial the special jury shall be ballotted for, and called in the order in which they shall be drawn from the box, in the same manner as common jurors: Provided that the court or a judge, in such case as they or he may think fit, may order that a special jury be struck according to the present practice; and such order shall be a sufficient warrant for striking such special jury, and making a panel thereof for the trial of the particular cause.

[S. 109 *rep.* 46 & 47 *Vict. c.* 49. s. 3.]

110. In London and Middlesex special jurors shall be nominated and reduced by and before the under sheriff and secondary respectively, in like manner as by the master before this Act, upon the application of either party entitled to a special jury, and his obtaining a rule for such purpose; and the names of the jurors so struck shall be placed upon a panel, which shall be delivered and annexed to the nisi prius record, in like manner and upon the same terms as herein-before provided with reference to the panel of common jurors; and upon the trial the special jury shall be ballotted for, and called in the order in which they shall be drawn from the box, in the same manner as common jurors.

Nomination,
&c. of special
juries in
London and
Middlesex.

[S. 111 *rep.* 46 & 47 *Vict. c.* 49. s. 3.]

112. Where notice has been given to try by special jury, either party may, six days before the first day of the sittings in London or Middlesex, or adjournment day in London, or commission day of the assizes, give notice to the sheriff that such cause is to be tried by a special jury; and in case no such notice be given, no special jury need be summoned or attend, and the cause may be tried by a common jury, unless otherwise ordered by the court or a judge.

Notice to
sheriff of trial
by special jury.

113. In all cases where notice is not given to the sheriff that the cause is to be tried by a special jury, and by reason thereof a special jury is not summoned or does not attend, the cause may be tried by a common jury, to be taken from the panel of common jurors, in like manner as if no proceedings had been had to try the cause by a special jury.

If special jury
not summoned,
cause to be
tried by a
common jury.

114. A writ of view shall not be necessary or used; but, whether the view is to be had by a common or special jury, it shall be sufficient to obtain a rule of the court or judge's order, directing a view to be had; and the proceedings upon the rule

View to be by
rule or order
without writ.

for a view shall be the same as the proceedings heretofore had under a writ of view; and the sheriff, upon request, shall deliver to either party the names of the viewers, and shall also return their names to the associate for the purpose of their being called as jurymen upon the trial.

Proceedings
before juries
to be the
same as before
this Act.

115. The jurors contained in such panels as aforesaid shall be the jurors to try the causes at the assizes and sittings for which they shall be summoned respectively; and all such proceedings may be had and taken before such juries in like manner, and with the like consequences in all respects, as before any jury summoned in pursuance of any writ or writs of *venire facias* *juratores*, *distringas juratores*, or *habeas corpora juratorum*, before this Act.

Execution.

[*Ss. 116–125 rep. 46 & 47 Vict. c. 49. s. 3.*]

Sheriff or
gaoler may
discharge
prisoner by
authority of
attorney in
the cause.

126. A written order under the hand of the attorney in the cause, by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the sheriff, gaoler, or person in whose custody the party may be under such writ, in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such sheriff, gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Proceedings
for charging
in execution a
person already
in the prison of
the court.

127. It shall not be necessary in any case to sue out a writ of *habeas corpus ad satisfaciendum* to charge in execution a person already in the prison of the court; but such person may be so charged in execution by a judge's order made upon affidavit that judgment has been signed and is not satisfied; and the service of such order upon the keeper of the prison for the time being shall have the effect of a detainer.

And with respect to proceedings for the revival of judgments and other proceedings by and against persons not parties to the record, be it enacted as follows:

Scire facias,
§c.

[*Ss. 128–131 rep. 46 & 47 Vict. c. 49. s. 3.*]

Writs of *scire*
facias to be
tested, directed,
and proceeded
upon in like
manner.

132. All writs of *scire facias* issued out of any of the Superior Courts of Law at Westminster against bail on a recognizance; . . . against members of a joint stock company or other body, upon a judgment recorded against a public officer or other person sued as representing such company or body, or against such company or body itself; for restitution after a reversal in error; upon a suggestion of further breaches after judgment for any penal sum, pursuant to the Statute passed in the section holden in the eight and ninth years of the reign of King William the Third, intituled "An Act for the better preventing frivolous and vexatious suits"; or for recovery of land taken under an *elegit*;

shall be tested, directed, and proceeded upon, in like manner as writs of revivor.

[*Ss. 133-207 rep. 46 & 47 Vict. c. 49. s. 3. S. 208 rep. 55 & 56 Vict.*

c. 19. (S.L.R.)]

209. Every tenant to whom any writ in ejectment shall be delivered, or to whose knowledge it shall come, shall forthwith give notice thereof to his landlord, or his bailiff or receiver, under penalty of forfeiting the value of three years improved or rack rent of the premises, demised or holden in the possession of such tenant, to the person of whom he holds, to be recovered by action in any court of common law having jurisdiction for the amount.

Tenants to give notice of writ of ejectment to landlord.

210. In all cases between landlord and tenant, as often as it shall happen that one half year's rent shall be in arrear, and the landlord or lessor, to whom the same is due, hath right by law to re-enter for the nonpayment thereof, such landlord or lessor shall and may, without any formal demand or re-entry, serve a writ in ejectment for the recovery of the demised premises; . . . which service . . . shall stand in the place and stead of a demand and re-entry; and in case of judgment against the defendant for nonappearance, if it shall be made appear to the court where the said action is depending, by affidavit, or be proved upon the trial in case the defendant appears, that half a year's rent was due before the said writ was served, and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due, and that the lessor had power to re-enter, then and in every such case the lessor shall recover judgment and execution, in the same manner as if the rent in arrear had been legally demanded, and a re-entry made; and in case the lessee or his assignee, or other person claiming or deriving under the said lease, shall permit and suffer judgment to be had and recovered on such trial in ejectment, and execution to be executed thereon, without paying the rent and arrears, together with full costs, and without proceeding for relief in equity within six months after such execution executed, then and in such case the said lessee, his assignee, and all other persons claiming and deriving under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, other than by bringing error for reversal of such judgment, in case the same shall be erroneous; and the said landlord or lessor shall from thenceforth hold the said demised premises discharged from such lease; . . . provided that nothing herein contained shall extend to bar the right of any mortgagee of such lease, or any part thereof, who shall not be in possession, so as such mortgagee shall and do, within six months after such judgment obtained and execution executed pay all rent in arrear, and all costs and damages sustained by such lessor or person entitled to the remainder or reversion as aforesaid, and perform all the

Proceedings in ejectment by landlord for nonpayment of rent.

covenants and agreements which, on the part and behalf of the first lessee, are and ought to be performed.

Lessee proceeding in equity not to have injunction or relief without payment of rent and costs, &c.

211. In case the said lessee, his assignee, or other person claiming any right, title, or interest, in law or equity, of, in, or to the said lease, shall, within the time aforesaid, proceed for relief in any court of equity, such person shall not have or continue any injunction against the proceedings at law on such ejectment, unless he does or shall, within forty days next after a full and perfect answer shall be made by the claimant in such ejectment, bring into court, and lodge with the proper officer, such sum and sums of money as the lessor or landlord shall in his answer swear to be due and in arrear over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessor or landlord on good security, subject to the decree of the court; and in case such proceedings for relief in equity shall be taken within the time aforesaid, and after execution is executed, the lessor or landlord shall be accountable only for so much and no more as he shall really and bonâ fide, without fraud, deceit, or wilful neglect, make of the demised premises from the time of his entering into the actual possession thereof; and if what shall be so made by the lessor or landlord happen to be less than the rent reserved on the said lease, then the said lessee or his assignee, before he shall be restored to his possession, shall pay such lessor or landlord, what the money so by him made fell short of the reserved rent for the time such lessor or landlord held the said lands.

On tenant paying all rent with costs, proceedings to cease.

212. If the tenant or his assignee do or shall, at any time before the trial in such ejectment, pay or tender to the lessor or landlord, his executors or administrators, or his or their attorney in that cause, or pay into the court where the same cause is depending, all the rent and arrears, together with the costs, then and in such case all further proceedings on the said ejectment shall cease and be discontinued; and if such lessee, his executors, administrators, or assigns, shall, upon such proceedings as aforesaid, be relieved in equity, he and they shall have, hold, and enjoy the demised lands, according to the lease thereof made, without any new lease.

Ejectment by landlord against tenant holding over after expiration of term or determination of tenancy by notice to quit.

213. Where the term or interest of any tenant now or hereafter holding under a lease or agreement in writing any lands, tenements, or hereditaments for any term or number of years certain, or from year to year, shall have expired or been determined either by the landlord or tenant by regular notice to quit, and such tenant, or any one holding or claiming by or under him, shall refuse to deliver up possession accordingly, after lawful demand in writing made and signed by the landlord or his agent, and served personally upon or left at the dwelling house or usual place of abode of such tenant or person, and the landlord shall thereupon proceed by action of ejectment for the

recovery of possession, it shall be lawful for him, at the foot of the writ in ejectment, to address a notice to such tenant or person requiring him to find such bail, if ordered by the court or a judge, and for such purposes as are herein-after next specified; and upon the appearance of the party on an affidavit of service of the writ and notice, it shall be lawful for the landlord producing the lease or agreement, or some counterpart or duplicate thereof, and proving the execution of the same by affidavit, and upon affidavit that the premises have been actually enjoyed under such lease or agreement, and that the interest of the tenant has expired, or been determined by regular notice to quit, as the case may be, and that possession has been lawfully demanded in manner aforesaid, to move the court or apply by summons to a judge at chambers for a rule or summons for such tenant or person to show cause, within a time to be fixed by the court or judge on a consideration of the situation of the premises, why such tenant or person should not enter into a recognizance by himself and two sufficient sureties in a reasonable sum conditioned to pay the costs and damages which shall be recovered by the claimants in the action; and it shall be lawful for the court or judge upon cause shown, or upon affidavit of the service of the rule or summons in case no cause shall be shown, to make the same absolute in the whole or in part, and to order such tenant or person, within a time to be fixed, upon a consideration of all the circumstances, to find such bail, with such conditions and in such manner as shall be specified in the said rule or summons, or such part of the same so made absolute; and in case the party shall neglect or refuse so to do, and shall lay no ground to induce the court or judge to enlarge the time for obeying the same, then the lessor or landlord, filing an affidavit that such rule or order has been made and served and not complied with, shall be at liberty to sign judgment for recovery of possession and costs of suit . . .

Rule or summons for the tenant to give bail.

On rule or summons being made absolute, if tenant shall not conform thereto, landlord may sign judgment.

214. Wherever it shall appear on the trial of any ejectment at the suit of a landlord against a tenant, that such tenant or his attorney hath been served with due notice of trial, the judge before whom such cause shall come on to be tried shall, whether the defendant shall appear upon such trial or not, permit the claimant on the trial, after proof of his right to recover possession of the whole or of any part of the premises mentioned in the writ in ejectment, to go into evidence of the mesne profits thereof which shall or might have accrued from the day of the expiration or determination of the tenant's interest in the same down to the time of the verdict given in the cause, or to some preceding day to be specially mentioned therein; and the jury on the trial finding for the claimant shall in such case give their verdict upon the whole matter, both as to the recovery of the whole or any part of the premises, and also as to the amount of the damages to be paid for such mesne profits; and in such case the landlord shall have judgment within the time herein-before

Damages for mesne profits.

provided, not only for the recovery of possession and costs, but also for the mesne profits found by the jury: Provided always, that nothing herein-before contained shall be construed to bar any such landlord from bringing any action for the mesne profits which shall accrue from the verdict, or the day so specified therein down to the day of the delivery of possession of the premises recovered in the ejectment.

[*Ss. 215, 216 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Landlord to recover possession of lands, &c. after service of writ in ejectment.

217. In all actions of ejectment hereafter to be brought in any of her Majesty's courts at Westminster by any landlord against his tenant, or against any person claiming through or under such tenant, for the recovery of any lands or hereditaments in any county, except London or Middlesex, where the tenancy shall expire, or the right of entry into or upon such lands or hereditaments shall accrue to such landlord, in or after Hilary or Trinity terms respectively, it shall be lawful for the claimant in any such action, at any time within ten days after such tenancy shall expire, or right of entry accrue as aforesaid, to serve a writ in ejectment . . . and the like proceedings shall be thereupon had as herein-before provided . . .

Saving of other remedies of landlords.

218. Nothing herein contained shall be construed to prejudice or affect any other right of action or remedy which landlords may possess in any of the cases herein-before provided for, otherwise than herein-before expressly enacted.

In ejectment by mortgagee, the mortgagor's tendering the principal, interest, and costs, or paying the same into court, shall be deemed a full satisfaction; and the court shall compel the mortgagee to re-convey, &c.

219. Where an action of ejectment shall be brought by any mortgagee, his heirs, executors, administrators, or assignees, for the recovery of the possession of any mortgaged lands, tenements, or hereditaments, and no suit shall be then depending in any of her Majesty's courts of equity in that part of Great Britain called England, for or touching the foreclosing or redeeming of such mortgaged lands, tenements, or hereditaments, if the person having right to redeem such mortgaged lands, tenements, or hereditaments, and who shall appear and become defendant in such action, shall, at any time pending such action, pay unto such mortgagee, or, in case of his refusal, shall bring into court, where such action shall be depending, all the principal monies and interest due on such mortgage, and also all such costs as have been expended in any suit at law or in equity upon such mortgage (such money for principal, interest, and costs to be ascertained and computed by the court where such action is or shall be depending, or by the proper officer by such court to be appointed for that purpose), the monies so paid to such mortgagee, or brought into such court, shall be deemed and taken to in full satisfaction and discharge of such mortgage; and the court shall and may discharge every such mortgagor or defendant of and from the same accordingly, and shall and may, by rule of the same court, compel such mortgagee, at the costs and charges of such mortgagor, to assign, surrender, or re-convey such mortgaged lands, tenements, and hereditaments, and such

estate and interest as such mortgagee has therein, and deliver up all deeds, evidences, and writings in his custody, relating to the title of such mortgaged lands, tenements, and hereditaments, unto such mortgagor, who shall have paid or brought such monies into the court, his heirs, executors, or administrators, or to such other person or persons as he or they shall for that purpose nominate or appoint.

220. Nothing herein contained shall extend to any case where the person, against whom the redemption is or shall be prayed, shall (by writing under his hand, or the hand of his attorney, agent, or solicitor, to be delivered before the money shall be brought into such court of law, to the attorney or solicitor for the other side), insist, either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums, than what appear on the face of the mortgage or shall be admitted on the side; or to any case where the right of redemption to the mortgaged lands and premises in question in any cause or suit shall be controverted or questioned by or between different defendants in the same cause or suit; or shall be any prejudice to any subsequent mortgage or subsequent incumbrance; anything herein contained to the contrary thereof in anywise notwithstanding.

Act not to extend to cases where the right of redemption is controverted, or the money due is not adjusted;

nor to prejudice any subsequent mortgage.

[*Ss. 221–225, 227–234 rep. 46 & 47 Vict. c. 49. s. 3. S. 226 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

235. In citing this Act in any instrument, document or proceeding, it shall be sufficient to use the expression “The Common Law Procedure Act, 1852.”

Short title.

236. Nothing in this Act shall extend to Ireland or Scotland . . .

Extent of Act.

[*Scheds. rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

CHAPTER LXXIX.

AN ACT to amend and further extend the Acts for the Inclosure, Exchange, and Improvement of Land.^[1] [30th June 1852.]

[*Preamble recites 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; 10 & 11 Vict. c. 111; 11 & 12 Vict. c. 99; 12 & 13 Vict. c. 83; 14 & 15 Vict. c. 53.*]

1. Notwithstanding the provisions in the Inclosure Act, 1845, it shall not be lawful for the Inclosure Commissioners to give notice of their intention to proceed with the inclosure of any lands without the previous direction of Parliament; and no land shall be inclosed under the said recited Acts and this Act without the previous authority of Parliament in each particular case, as in the Inclosure Act, 1845, provided with reference to waste land

No lands to be inclosed without authority of Parliament.

8 & 9 Vict. c. 118.

[¹ Short title, “The Inclosure Act, 1852”. See 55 & 56 Vic. c. 10; but see also s. 34 of this Act.]

of any manor on which the tenants of such manor have rights of common, and other lands therein particularly mentioned.

Outfall of
drains.

10 & 11 Vict.
c. 38.

Drains, &c.
may be made
in lands out of
the parish in
which the lands
to be inclosed
are situate.

2. For the purpose of obtaining or improving the outfall of any drain or watercourse in land to be inclosed, the valuer acting in the matter of such inclosure shall be deemed to be the person interested under the provisions of the Land Drainage Act, 1847, in the land to be inclosed; and it shall be lawful for such valuer to direct by his award by whom and in what manner such outfall shall be maintained and repaired; and it shall be lawful for such valuer to set out and make and also to provide for the proper repair, cleansing, and maintenance of drains, watercourses, embankments, tunnels, bridges, and any other necessary works in or over any land other than the land the subject matter of such enclosure, notwithstanding such land may not be in the parish or respective parishes in which the land to be inclosed may be situate: Provided always, that the same consent shall be required as if the said land had been in the parish or respective parishes in which the land to be inclosed is situate; provided also, that, when such inclosure is completed, the valuer shall cease to be deemed the person interested as aforesaid.

Remedy in
case of non-
payment of
expences.
8 & 9 Vict.
c. 118.

3. The service of the notice by the Inclosure Act, 1845, required to be given by the valuer, that the proportion of expences payable by any person is in arrear, and requiring payment thereof, may be effected in such manner as is therein directed, or by leaving the same with the agent of the person liable to pay such proportion of expences, or at the usual place of abode of such agent; and if the proportion of expences so in arrear, together with lawful interest and two shillings and sixpence for the costs of the preparation and service of such notice as aforesaid, shall not be paid on the expiration of thirty days after service of such notice, it shall be lawful for the valuer to recover the same in such manner as the proportion of expences and interest are by the Inclosure Act, 1845, authorized to be raised, or, with the approbation of the commissioners, to sell the whole or such part of the allotment made to such person so in arrear as shall be sufficient to defray such expences, interest, and costs, and the expences of making and completing such sale.

Sale of land
directed to be
inclosed.

4. After the determination of the claims in the matter of any inclosure, and before the valuer shall have divided and allotted the lands to be inclosed, it shall be lawful for the commissioners, upon the application in writing of persons, the aggregate amount of whose interests in the land proposed to be inclosed shall not be less in value than two thirds of the whole interest in such land, and who shall not be less in number than two thirds of the persons whose claims have been allowed by the valuer, and also upon the application in writing of the other persons (if any) whose consents may be necessary under the provisions of the Inclosure Act, 1845, in case the said commissioners shall be of opinion that the sale of such lands in whole or in part, but so

8 & 9 Vict.
c. 118.

nevertheless that the land so proposed to be sold shall not exceed fifty acres, would be expedient, by an order under their seal, to authorize the sale thereof in whole or in part; and thereupon all the provisions of the Inclosure Act, 1845, as to the sale of land for the expences of an inclosure, the conveyance thereof, and the receipt of the purchase money, shall be applicable to the sale of such land: Provided also, that before any such sale shall be made, it shall be approved of by the persons whose claims have been allowed by the valuer, at a meeting convened by the commissioners for the purpose of considering the same; and the majority present at such meeting shall bind the minority and all absent parties.

Meeting to
consent to sale.

5. After the making of such order as aforesaid, and of a sale in pursuance of such order, the commissioners shall call a meeting, in such manner and with such notice as to them shall seem fit, of all persons whose claims have been allowed by the valuer; and at such meeting the majority in respect of interest present at such meeting shall determine, by resolutions to be passed at such meeting, how any surplus of such purchase monies as may remain unappropriated after the payment of all such expences, as the commissioners may certify as proper expences in the matter of such inclosure, and in the proceedings attendant thereon or incident thereto or to the sale of such lands, shall be appropriated; and it shall be lawful for such meeting, by resolutions to be passed in the manner aforesaid, to appropriate such surplus of such purchase monies to the endowment of schools, the construction or maintenance of bridges, highways, schoolhouses, drains, watercourses, or any other works or objects whatever of public utility, and to provide in what manner such monies shall be expended, invested, or managed for the purposes to which such monies are so appropriated by such resolutions.

Meeting of
persons inter-
ested to deter-
mine appro-
priation of
surplus.

6. Provided that no resolutions passed at any such meeting shall be of any force or effect until or unless the same shall be confirmed and allowed by the said commissioners under their seal.

Resolutions at
such meeting
to be confirmed
by commis-
sioners.

7. If the said commissioners shall vary or disallow any resolutions so passed as aforesaid, they shall, as soon as conveniently may be, call a second meeting of persons whose claims have been allowed by the valuer, which second meeting shall be attended by an assistant commissioner, who shall preside thereat; and at such second meeting the resolutions passed at the first meeting may, by a like majority of the persons present interested in respect of value, be varied, altered, or rescinded, and other resolutions may be passed for appropriating such surplus monies for the purposes herein-before mentioned; provided that such resolutions shall in like manner be of no force or effect unless confirmed and allowed by the said commissioners under their seal.

Second meet-
ing may be
held.

Appropriation
of surplus if
resolutions of
second meeting
are disallowed,
&c.

8. In case the said commissioners shall disallow the resolutions passed at such second meeting, or if at any meeting so to be called as aforesaid no resolutions to the effect aforesaid shall be passed, then such surplus of such purchase monies shall be expended from time to time in lieu or in aid of the rate for the maintenance or repair of the highways of the parish or parishes within which such land liable to be inclosed is situate; and in case the said lands shall be situate in more than one parish, then the division of such surplus monies between the said parishes shall be proportioned to the quantity of the land liable to be inclosed which is situate within each parish.

Award to be
made.

8 & 9 Vict.
c. 118.

9. After the confirmation of such resolutions as aforesaid the said commissioners or an assistant commissioner shall frame an award, in such manner and with all such formalities as are required by the Inclosure Act, 1845, for a final inclosure award, and thereby, after reciting the sums allowed by the said commissioners and paid for expences incurred in the matter of the inclosure, and in the proceedings attendant thereon or incident thereto, or to the sale of such lands, or to the improvement thereof for purposes of sale or otherwise, shall award and direct the appropriation of the surplus monies, if any, in such manner as to carry out the true intent and meaning of any resolutions passed and confirmed as herein-before mentioned, or, in default of any such confirmed resolutions, then of the appropriation of such surplus in the manner herein-before provided by this Act.

Award not to
be impeached.

10. After the confirmation of any instrument purporting to be an award made and confirmed under the provisions of this Act, such instrument shall be unimpeachable, and shall be in all respects valid and operative as an award for all the purposes aforesaid.

Sales how to
be made.

8 & 9 Vict.
c. 118.

11. The whole of the said expences, interest, and costs, or so much and such parts thereof as shall be unpaid, or shall not have been recovered under the provisions of the Inclosure Act, 1845, in case the valuer shall have proceeded for the recovery thereof as therein authorized, may be raised by such sales, which shall be made by the valuer, with the approbation of the said commissioners, in the same manner and subject to the same regulations as are in the Inclosure Act, 1845, prescribed in respect of the sale of part of the land subject to be inclosed towards defraying the expences of the inclosure; and every part of an allotment for which the full purchase money shall be paid shall be conveyed by the commissioners, at the expence of the purchaser, as he shall appoint, and shall be enclosed, and held by such purchaser in severalty; and any such conveyance may be to the effect set forth in the schedule to the said Act, and shall be evidence of the regularity of the sale in pursuance of which such conveyance shall be made: Provided always, that nothing herein contained shall enable the commissioners to convey any allotments set out as copyhold or customary as freehold; but such copyhold or customary allotments shall be held by the

purchaser thereof by, under, and subject to the same rents, suits, and services, as such allotments would have been held in case no such sale had been made.

12. The receipt of the commissioners shall be a sufficient discharge to the purchaser for the said purchase money; and such purchase money shall be applied by the commissioners in or towards defraying the costs, interest, and expences for raising which such sale shall have been made; and the surplus (if any) shall be paid to or for the benefit of the parties whose allotments, or any part thereof, shall have been sold; and the shares of such of them as shall be tenants in fee simple, free from incumbrances, shall be paid to them respectively; and the shares of the other proprietors of such surplus money shall be applied and disposed of in such and the same manner as the surplus of any monies arising from the sale of part of an allotment for raising money for expences is by the Inclosure Act, 1845, directed to be applied and disposed of.

Application of purchase money.

13. When any person by whom any encroachment or inclosure, of whatever value, which under the Inclosure Act, 1845, shall be deemed to be parcel of the land subject to be inclosed, shall be actually occupied, shall neglect or refuse to quit and deliver up possession of the same, or any part thereof, to the valuer acting in the matter of the inclosure, within one calendar month next after the determination of claims under the Inclosure Act, 1845, the possession thereof may be recovered by such valuer, under the provisions of the Small Tenements Recovery Act, 1838, in such and the same manner as if such occupier of an encroachment or inclosure were the tenant of a house, land, or corporeal hereditament, the possession of which is recoverable under such last-mentioned Act, whose term or interest had ended, and the valuer were the landlord of the said premises: Provided always, that the form of notice of valuer's intention to apply to justices to recover possession, "complaint before two justices," and "warrant to peace officer to take and give possession," set forth in the schedule to this Act, shall be substituted for the forms set forth in the schedule to the said last-mentioned Act; and all costs and expences incurred by the valuer in the recovery of the possession of encroachments or inclosures, or incident thereto or arising therefrom, shall be deemed expences in the matter of such inclosure.

Proceedings for obtaining possession of encroachments.

8 & 9 Vict. c. 118.

1 & 2 Vict. c. 74.

Expences.

14. Notwithstanding the provisions in the Inclosure Act, 1845, with reference to the fencing of allotments for exercise and recreation, and of town greens and village greens allotted for such purposes, it shall be lawful for the commissioners, by an order under their seal, in such cases as they shall see fit, to direct that such allotments, town greens, and village greens respectively shall be distinguished by metes and bounds, but not fenced.

Commissioners may direct that village greens, &c. shall not be fenced.

Valuer to send
in report
but not to give
possession
without order.

15. The valuer in the matter of any inclosure shall, within one calendar month next after the division of the land to be inclosed and staking out of the allotments, send to the office of the commissioners his report, with such a map thereunto annexed as is required by the Inclosure Act, 1845, unless such time be extended by the commissioners by an order under their seal; and it shall not be lawful for the valuer to direct the allotments to be entered upon by the persons for whom the same shall be intended until he shall be authorized so to do by an order under the seal of the commissioners.

Allotment of
fruit trees.

8 & 9 Vict.
c. 118.

16. Fruit trees standing and growing upon any land to be inclosed shall not be dealt with as timber trees and other trees are by the Inclosure Act, 1845, directed to be dealt with, but shall be allotted and go along with the land whereon they respectively stand, and shall be deemed the property of the several persons to whom the same land shall be respectively allotted; and in estimating the value of such allotments the valuer shall make such allowance for the increased value of the land by reason of the fruit trees standing and growing thereon as he shall deem just and reasonable.

Deposit of
orders of
division,
exchange and
partition in
certain cases.

8 & 9 Vict.
c. 118.

17. In any case of division of intermixed land, exchange, or partition, in which it shall appear to the commissioners from the number of persons interested in the subject matter of the division, exchange, or partition, or the nature of their interests, that the direction in the said recited Acts that a copy of the order under the seal of the commissioners shall be delivered to each of the parties upon whose application such order shall be made are inapplicable, it shall be lawful for them, instead of delivering a copy of such order to each of such parties, to direct by an order under their seal that copies shall be deposited in such and the same manner as copies of an award in the matter of an inclosure under the said Acts are directed to be deposited; and thereupon all the provisions in the Inclosure Act, 1845, relating to the deposit, custody, and inspection of copies of such awards, and for the furnishing of copies of and extracts therefrom, shall be applicable to copies of such orders of division, exchange, and partition respectively: Provided always, that the commissioners shall, upon the request and at the cost of any person upon whose application such order was made, furnish him with a copy of the order sealed with their seal.

Commence-
ment of rent-
charge out of
labouring poor
allotments.

8 & 9 Vict.
c. 118.

18. Notwithstanding the provisions of the Inclosure Act, 1845, it shall be lawful for the valuer, with the approbation of the commissioners, by his award in the matter of any inclosure, to direct that the first half-yearly payment of a rentcharge payable out of an allotment for the labouring poor shall be made on any first day of July or first day of January, not being less than six months nor more than three years from the confirmation of such award; and in default of such direction the first half-yearly payment of such rentcharge shall be made as directed by the Inclosure Act, 1845.

19. It shall be lawful for the valuer, in pursuance of instructions duly given in that behalf, to sell any rentcharge payable out of allotments for the labouring poor for the purpose of raising all or any part of the expenses of the inclosure; and such rentcharge shall be sold and conveyed in such and the same manner as if the same were land sold under the Inclosure Act, 1845, for payment of the expenses incident to an inclosure.

Rentcharge may be sold towards expenses.

20. Upon the hearing of any claim to a right of common or other right in the matter of an inclosure, the claimant shall have the full benefit of the provisions of the Prescription Act, 1832, and of the fifty-fourth section of the Inclosure Act, 1845, without any special reference being made thereto in such claim.

Application of 2 & 3 Will. 4. c. 71. and 8 & 9 Vict. c. 118. s. 54.

21. Where any allotment has been made in trust or otherwise under any inclosure award for any public or parochial purpose, or for the benefit of the inhabitants or others within any parish or manor, and it shall appear to the said commissioners to be no longer necessary, convenient, or suitable for the purposes for which the same shall have been made, it shall be lawful for the commissioners, upon the application in writing of the churchwardens and overseers of the poor of the parish in which such allotment is situated, or the trustees for the time being of such allotment, and of the person interested in any land or other subject matter of exchange under the said recited Acts or either of them, which he may be willing to give in exchange for such allotment, in case they shall be of opinion that such exchange would be mutually beneficial, to cause to be framed, and to confirm, an order of exchange of such allotment for such other land or other subject matter of an exchange as aforesaid; and all the provisions of the said recited Acts applicable to exchanges shall extend and be applicable to any such applications for exchange: Provided always, that it shall be lawful thereby to declare any new trusts, if the same shall have been approved of by a majority of the persons for whose benefit such allotment as aforesaid was set out, present at a meeting convened by the commissioners for the purpose of considering the same.

Allotments set out under local Acts may be exchanged.

22. Where any money shall have been or may hereafter be paid to a committee under the Lands Clauses Consolidation Act, 1845, or under any railway or other special Act by which money may have been directed or authorized to be paid to a committee, as compensation for the extinction of commonable or other rights, or for lands being common lands or in the nature thereof, the right to the soil of which may have belonged to the commoners, and such committee shall be of opinion that the provisions of such Act for the apportionment thereof cannot be satisfactorily carried into effect, such committee may make application in writing to the commissioners to call a meeting of the persons interested in such compensation money for the appointment of trustees of such compensation money, and for

Application of compensation for common rights paid under 8 & 9 Vict. c. 18.

the investment thereof, and for the application of the interest and annual produce thereof to such purposes for the benefit of the persons interested therein as the commissioners shall approve; and if the said commissioners shall think fit to proceed with such application, they shall call a meeting accordingly, and the decision of the majority in number and the majority in respect of interest of the persons present at such meeting shall bind the minority and all absent parties: Provided always, that if no instructions shall be resolved upon, or in case the commissioners shall deem such instructions unjust or unreasonable, they may, by an order under their seal, give such instructions for the investment of such compensation money and for the application of the income thereof as they shall think fit; and such order under the seal of the commissioners, or the order approving of such instructions as aforesaid, shall contain provisions for the appointment of new trustees from time to time; and copies of such order shall be deposited and kept in like manner as copies of an award are by the Inclosure Act, 1845, directed to be deposited and kept; and the said committee shall be absolutely discharged from all liability in respect of such compensation money upon payment thereof to the said trustees, who shall, out of such money, in the first place pay and discharge all expences which may be incurred by the said commissioners in respect of or in any way incident to such application and order, and apply or invest the surplus thereof in such manner as shall by such order be authorized or directed.

8 & 9 Vict.
c. 118.

In cases of
appeal as to
boundaries,
commissioners
may order pro-
duction of
maps, &c.

23. The said commissioners, or any assistant commissioner specially appointed by them, in cases of appeal to a jury on questions of boundary, may, if they or he shall see fit, order the production of any terriers, maps, plans, and surveys, or copies thereof, touching the matter in question; and all costs, charges, and expences properly incurred by the said commissioners and assistant commissioner, or by the valuer, or any other person or persons, in supporting the award and decision of the said commissioners or of the assistant commissioner, and incidental thereto, including the costs, charges, and expences of producing and of the making or procuring and producing office or other copies or extracts of maps, surveys, or other documents, shall be included in the costs of such appeal, and be payable and recoverable in like manner as if the same were expences of witnesses under the Inclosure Act, 1845.

8 & 9 Vict.
c. 118.

Bond by per-
sons appealing
as to bounda-
ries shall ex-
tend to pay-
ment of costs
of commis-
sioners, &c.

24. The provisions of the Inclosure Act, 1845, whereby a bond with two sufficient sureties is directed to be entered into by any person requiring a jury to be summoned to try any question relating to boundaries for payment of the costs and expences therein mentioned, shall extend to and include all costs, charges, and expences which may be properly incurred by the said commissioners and assistant commissioner, or by the valuer or any other person or persons in supporting the award

and decision of the said commissioners or of the assistant commissioner, and incidental thereto, in case such decision and award shall be confirmed by the jury summoned to try the same under the said Act.

25. Where any determination of the commissioners or assistant commissioner shall be removed by writ of certiorari under the provisions of the Inclosure Act, 1845, into her Majesty's Court of Queen's Bench, and the same shall be confirmed, such court may make such rules and orders therein as to the costs, charges, and expences incurred therein, or in any feigned issues thereon, by the commissioners, or by the person or persons supporting the same, as may appear just and reasonable, notwithstanding the same may exceed the amount of the recognizance required by the said Act to be entered into; and the like execution may be had for the same, as if such costs had been recovered upon a judgment of record of the said court.

Costs of
certiorari.
8 & 9 Vict.
c. 118.

26. In every case of such removal by certiorari of the determination of the commissioners or assistant commissioner, and in every case of feigned issue to which the said commissioners or assistant commissioner shall be a party, the costs, charges, and expences incurred by them or him in supporting the determination or award in dispute, as well as the amount of any costs paid by them or him to any other party or parties pursuant to the decision of the said court, shall be deemed to be part of the expences of the inclosure to which such determination or award shall relate, and shall be paid by such parties and in such proportions as the said commissioners or assistant commissioner shall direct, subject nevertheless to the provisions herein-before contained.

Costs of com-
missioners to
be deemed part
of inclosure
expences in
such cases.

27. And whereas it is doubtful whether any or what fee is payable to the clerk of the peace upon the deposit with him of a copy of an inclosure award under the provisions of the Inclosure Act, 1845: Be it enacted, that the fee upon such deposit shall be the sum of ten shillings and no more.

Fee to clerk
of peace upon
deposit of copy
of award.

28. And whereas by the Inclosure Act, 1849, power is given to the valuer in the matter of any inclosure to declare by his award how much and which part of any of the lands to be allotted and divided or dealt with by such award, or of any roads passing over or through the same or any part thereof, shall be and be deemed to be situate in any parish or parishes in which any of the land so to be divided, allotted, or dealt with shall be situated: Be it enacted, that the words "parish" or "parishes" herein-before recited shall include and also be intended to mean district or districts having a separate surveyor or surveyors of the highways.

12 & 13 Vict.
c. 83. s. 1.

Definition of
"parish."

29. In case of any fraudulent or other error or omissions in any award or order confirmed by the commissioners, the said commissioners may, by an order under their hands and seal, by

Correction of
awards and
orders.

indorsement or otherwise, correct such error or supply such omission; and such order shall be ingrossed, and, where not indorsed as aforesaid, be deposited with the original award or order, and shall thenceforth be and be deemed to be part thereof to all intents and purposes; and all the expences incident thereto shall be paid by the party (if any) who shall have requested the commissioners to make and execute the same, or by his executors or administrators.

Copy of map
may be an-
nexed to
award.

30. The commissioners may, if they shall think fit, direct the valuer to annex to his award, in substitution for the map referred to by his report, a copy thereof, of which the accuracy shall be certified under their seal.

Land held
under separate
titles, &c. by
the same per-
son may be
partitioned.

31. Any person interested in any land or other subject matter of partition in undivided shares held under separate titles, or for distinct and separate interests, or subject to separate charges or incumbrances, may effect a partition of the same in such and the same manner as if different persons had been interested therein.

Power to effect
partitions and
exchanges
where parties
are interested
in undivided
shares of land,
&c., and also
in the entirety
of other land,
&c.

32. Where any person or persons interested in any undivided parts or shares of any land or other subject matter of partition, within the meaning and intent of the said recited Acts, or any of them, and also interested in the entirety of any land or other subject matter of exchange within the meaning and intent of the said recited Acts or any of them, shall be desirous at one and the same time of effecting a partition and exchange thereof, it shall be lawful for such persons so desirous of effecting such partition and exchange to agree between themselves to effect the partition and exchange, in such a manner and in such proportions as they shall think fit, so that the land to be allotted to such person or persons in severalty, by means of such partition, together with the land to be taken in exchange by such person or persons, shall be a fair equivalent in value for the land so to be allotted in severalty to and the land to be taken in exchange by the other person or persons; and the commissioners may, upon the application in writing of the persons so interested, direct inquiries whether such arrangement would be beneficial to the owners of such lands and such undivided parts or shares respectively; and in case they shall be of opinion that such arrangement would be beneficial, and that the terms thereof are just and reasonable, they shall, unless notice of dissent be given in the manner provided by the said several recited Acts, cause to be framed and confirmed an order of partition and exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the lands allotted and awarded to each party under the said arrangement: Before making such order of partition and exchange, the commissioners shall ascertain, and shall in such order specify, what portions of the lands so to be awarded and allotted to each or any party is equivalent in value to the undivided part or share of such party in the lands

partitioned; and the said portions so ascertained and specified shall be taken and deemed to be so awarded and allotted under the partition; and the said commissioners shall also ascertain, and shall in such order specify, what portion of the lands so to be awarded and allotted to each or any party is equivalent in value to the land given in exchange by such party; and such portion so ascertained and specified, shall be deemed to be so awarded and allotted by way of exchange; and the land awarded and allotted by such order to each party shall be held in the following manner; viz., so much thereof as by the said order shall be awarded and allotted under the partition shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the undivided part or share of the party would have stood limited or been subject to, in case the said order had not been made; and so much of the said land as by the said order shall be awarded and allotted by way of exchange shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and subject to the same conditions, charges, and incumbrances, as the land given in exchange would have stood limited or been subject to, in case such order had not been made.

33.[¹] Any person having any stock or animals on any regulated pasture contrary to the regulations of such pasture, on being convicted thereof before two justices of the peace having jurisdiction in the county or place, shall forfeit and pay for and in respect of each head of stock or animal found in such regulated pasture such sum of money, not exceeding five pounds, as such justices shall think proper to inflict, by way of penalty; and such sum shall be paid to the field reeve, to be applied by him in aid of the rates by the Inclosure Act, 1845, authorized to be raised on the owners of stints in regulated pastures; [*Provisions as to prosecution of offences under this Act, rep. 39 & 40 Vict. c. 20. s. 1.*]: Provided always, that no remedy which any field reeve might otherwise have under the Inclosure Act, 1845, or otherwise, shall be in any manner prejudiced or affected by the provision last herein-before contained.

Penalty where stock is found on regulated pastures contrary to the regulations.

s & 9 Vict. c. 118.

34. In citing this Act, the said recited Acts, and the Acts passed in pursuance of the annual or any special reports of the commissioners, or any or either of them, in other Acts of Parliament, in conveyances, documents, and legal instruments, it shall be sufficient to use the expression, "The Acts for the Inclosure, Exchange, and Improvement of Land."

Short title of Inclosure Acts.

35. This Act shall be taken to be a part of the said recited Acts, and be construed therewith.

Construction.

[¹As to recovery of penalties under this section, see 39 & 40 Vict. c. 20. s. 1.]

Sect. 13.

SCHEDULE to which this Act refers.

FORM No. 1.

NOTICE of Valuer's Intention to apply to Justices to recover Possession where there are Buildings, Fences, or Erections.

I, _____, of _____, in the county of _____, the valuer acting in the matter of the inclosure of _____, situate in the _____ of _____, in the county of _____, hereby give you notice, that the encroachment [*or inclosure, as the case may be,*] from the said lands to be inclosed [*shortly describing it*] situate _____, now in your possession, is, with the residue of the said lands, about to be divided, allotted, and inclosed, and that you are at liberty, within two calendar months from the service of this notice, to take down and remove all buildings, fences, and other erections now standing on the said encroachment [*or inclosure*], and to convert the materials thereof to your own use.

And I further give you notice, that, unless peaceable possession of the said premises be given to me on or before the expiration of two calendar months from the service of this notice, I, _____, shall, on the _____ day of _____ next, at _____ of the clock of the same day, at _____, apply to her Majesty's justices of the peace acting for the district of _____ [*being the district, division, or place in which the said premises or any part thereof is situate,*] in petty sessions assembled, to issue their warrant directing the constables of the said district to enter and take possession of the said premises, and to eject any person therefrom.

Dated this _____ day of _____

(Signed)

To _____

Valuer.

FORM No. 2.

NOTICE of Valuer's Intention to apply to Justices to recover Possession where there are no Buildings, Fences, or Erections.

I, _____, of _____, in the county of _____, the valuer acting in the matter of the inclosure of _____, situate in the _____ of _____ in the county of _____, hereby give you notice, that unless peaceable possession of the encroachment [*or inclosure, as the case may be,*] from the said lands to be inclosed [*shortly describing it*], situate _____, now in your possession, be given to me on or before the expiration of seven clear days from the service of this notice, I, _____, shall, on the _____ day of _____ next, at _____ of the clock of the same day, at _____, apply to her Majesty's justices of the peace acting for the district of _____ [*being the district, division, or place in which the said premises or any part thereof is situate,*] in petty sessions assembled, to issue their warrant directing the constables of the said district to enter and take possession of the said premises, and to eject any person therefrom.

Dated this _____

(Signed)

To _____

Valuer.

A.D. 1852.]

Inclosure (E.)

[15 & 16 V. c. 79.] 1095

FORM No. 3.

COMPLAINT before the Justices.

THE complaint of _____, the valuer acting in the matter of the inclosure of _____, situate in the _____ of _____, in the county of _____, made before us, two of her Majesty's justices of the peace acting for the district of _____, in petty sessions assembled, who saith that _____ is in the occupation of an encroachment [or inclosure] from the said lands to be inclosed, consisting of _____, and that on the _____ day of _____ he determined the claims in the matter of the said inclosure, and that on the _____ day of _____, being more than one calendar month from the determination of the said claims, the said _____ did serve on _____ [person in possession of encroachment or inclosure] a notice in writing of his intention to apply to recover possession of the said premises (a duplicate of which notice is hereto annexed,) by giving, &c. [describing the mode in which the service was effected,] and that notwithstanding the said notice the said _____ refused [or neglected] to deliver up possession of the said premises, and still detains the same

Taken the _____ day of _____ (Signed) _____ before us,
(Signed) _____

A duplicate of the notice of intention to apply is to be annexed to this complaint.

FORM No. 4.

WARRANT to Peace Officers to take and give Possession.

WHEREAS [set forth the complaint]: We, two of her Majesty's justices of the peace in petty sessions assembled, acting for the _____ of _____, do authorize and command you on any day within _____ days from the date hereof [except on Sunday, Christmas Day, and Good Friday, to be added, if necessary,], between the hours of nine in the forenoon and four in the afternoon, to enter (by force, if needful,) and with or without the aid of _____ the valuer, or any other person or persons whom you may think requisite to call to your assistance, into and upon the said encroachment or inclosure, and to eject thereout any person, and of the said encroachment or inclosure full and peaceable possession to deliver to the said _____ [the valuer].

Given under our hands and seals, this _____ day of _____
To _____ and all other _____
constables and peace officers
acting for the
district of _____

For return
to the
justice of the
peace

CHAPTER LXXX.

AN ACT to abolish the Office of Master in Ordinary of the High Court of Chancery, and to make Provision for the more speedy and efficient Despatch of Business in the said Court.

[30th June 1852.]

[*Preamble.*]

[*Ss. 1-16 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 16 provided for the appointment of chief clerks to be attached to the Chancery Courts now amalgamated with the High Court of Justice.*]

Qualification of
chief clerks.

17. No person shall be appointed chief clerk unless he shall . . . have been admitted on the roll of solicitors and practised as such solicitor for the period of ten years at least immediately preceeding his appointment: . . .

[*S. 18 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Lord Chan-
cellor may
remove
officer
engaging
in other
employment,
&c.

19. If any person who shall accept any office under this Act shall engage in any other employment whatever whilst he holds such office, or shall receive any sum of money or benefit, other than his salary and what may be allowed or directed to be taken by him under any Act of Parliament or order of the said court or of the Lord Chancellor, for any act done or pretended to be done, or any attendance given or pretended to be given, either with or without the consent or direction or pretended consent or direction of the judge, in relation to or arising out of any proceeding in his office, or in any office of or connected with the Court of Chancery, or if such person, being or having been a solicitor shall directly or indirectly receive or secure to himself any continuing benefit from any business or firm in which he may have been engaged previously to his appointment to such office, the person so offending may be removed from his office by order of the Lord Chancellor, and shall be rendered incapable of afterwards holding any office, situation, or employment in the said court.

Solicitors ap-
pointed to
office to be
struck off the
rolls.

20. Every solicitor who shall be appointed to and shall accept any office under this Act shall cease to be solicitor, and shall forthwith procure himself to be struck off the roll of solicitors.

Tenure of
office of chief
clerks.

21. Every such chief clerk shall hold his office during his good behaviour, and so long as he shall personally give his attendance upon his duties, and shall conduct himself honestly and faithfully in the execution of the duties of his office.

[*S. 22 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

Chief and
junior clerks
to be under
control of
judges.

23. Such chief clerks shall be respectively under the control of the judge to whose court they shall respectively be attached, and shall attend at such places, during such times, and for such hours in each day, and perform such duties, as such judge shall from time to time direct.

[*Ss. 24-40 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

41. It shall be lawful for the Lord Chancellor to nominate any number of conveyancing counsel in actual practice, not less than six, who shall have practised as such for ten years at least, to be the conveyancing counsel . . . and to supply vacancies in such list from time to time, and to distribute the business among such counsel in such order and manner as to the Lord Chancellor shall seem fit.

Conveyancing
counsel of the
Court.

[*Ss. 42–59 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 60 rep. 56 & 57 Vict. c. 54. (S.L.R.)*]

61. In the construction of this Act the expression “Lord Chancellor” shall mean also and include the Lord Chancellor, Lord Keeper and Lords Commissioners for the custody of the Great Seal of the United Kingdom for the time being.

Interpretation
of terms.

CHAPTER LXXXI.

AN ACT to consolidate and amend the Statutes relating to the Assessment and Collection of County Rates in England and Wales.^[1]

[30th June 1852.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.) Ss. 2 (appointment by quarter sessions of committees for preparing basis or standard for fair and equal county rates) and s. 3 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

4.^[2] Such committee may from time to time, as they may see fit, appoint a clerk to assist them in the execution of their duties under the provisions of this Act, and may at any time remove such clerk, and appoint another in his stead.

Committee
may appoint a
clerk.

5.^[2] For the purpose of preparing such basis or standard for fair and equal county rates the said committee, by their order in writing, to be signed by their clerk, may from time to time, as often as they may deem it necessary, direct the overseers of the poor, constables, assessors, and collectors of public rates of or for any parish, township, borough, or place within the county, and all other persons having the custody or management of any public or parochial rates or valuations of any such parish, township, or place, to make returns in writing to the said committee, at such times and places as they may appoint, of the amount of the full and fair annual value of the whole or of any part of the property within the parish, township, or place liable to be assessed toward the county rate, together with the date of the last valuation for the assessment of such parish, and

Returns by
overseers of the
annual value of
the property in
any parish
liable to be
assessed, with
the date of the
last valuation,
&c.

[1 Short title, “The County Rates Act, 1852.” See 55 & 56 Vict. c. 10.

All business of quarter sessions or any committee appointed by quarter sessions in respect of the making, assessing, and levying of the county rate, and the preparation and revision of the basis or standard for the county rate is transferred to the county council, 51 & 52 Vict. c. 41. s. 3 (1): but see s. 8 which provides that nothing in that Act shall transfer to a county council any business of the quarter sessions or justices in relation to appeals against the basis or standard for the county rate, or against that or any other rate.]

[² Sections 4–20 are rep. 32 & 33 Vict. c. 67. s. 77, as to so much as relates to the preparation of a basis or standard of county rate for any part of the Metropolis as defined by that Act.]

Such returns to be laid before a vestry meeting previous to their being presented to the committee.

the name of the surveyor, or, if no surveyor, then the name or names of the person or persons by whom and the manner in which the said valuation was made; and the overseers of the poor required to make any such return in respect of any parish, township, or place maintaining its own poor, and the constable or other person required to make any such return in respect of any place not maintaining its own poor, shall, before they present the same to the said committee, lay the same before a vestry meeting of the parish, township, or place for which they act, or, where no vestry meeting is held, before some other meeting of the inhabitants of such place, if any such there be, at which the public business of such place is commonly transacted.

Meaning of "full and fair annual value."

6.[¹] For the purpose of preparing any such basis or standard for assessing any county rate, the words "full and fair annual value" shall be taken to mean the net annual value of any property as the same is or may be required by law to be estimated for the purpose of assessing the rates for the relief of the poor.

Committee may inspect rates, assessments, valuations, &c.

7.[¹] The said committee may from time to time, as often as they may deem it necessary, by their order in writing, signed as aforesaid, require the said overseers of the poor, constables, assessors, collectors, and any other persons whomsoever, to appear before them, when and where, and as often as the said committee may deem expedient, and to produce all parochial and other rates, assessments, valuations, apportionments, and other documents in their custody or power relating to the value of or assessment on all or any of the property within the several parishes and places aforesaid which may be liable to be assessed toward the county rate, and to be examined on oath, and answer such questions as the said committee may put to them respectively touching the said rates, assessments, valuations, or apportionments, or the value of the property aforesaid; and the said committee shall be authorized and empowered to administer such oath, and to examine the parties upon oath as aforesaid; and moreover it shall be lawful for such committee in the like cases from time to time to cause copies of the total amount assessed in each parish, township, or place in respect of any aids or taxes payable to her Majesty, and the total amount of the valuation of the property on which such assessments were made in any year then elapsed, to be made out by the clerk to the commissioners of each district within the limits of the jurisdiction of such justices.

Penalty on overseers or others refusing to make returns or to attend or produce documents.

8.[¹] Every overseer of the poor, constable, assessor, collector, or other person so required to make returns, or to appear as aforesaid, who shall, without any reasonable excuse, neglect to make such returns in writing as aforesaid, or wilfully make any false return, and every person who shall neglect or refuse to appear when required so to do as aforesaid, or to be sworn or

[¹ See note 2 on p. 1097.]

examined, or to produce such documents as herein-before provided, shall forfeit a sum not exceeding twenty pounds, to be prosecuted for and recovered by order of the said committee before any two of her Majesty's justices of the peace.

9.^[1] The said committee may from time to time, and so often as they may think fit, by their order in writing, to be signed as aforesaid, direct that the whole or any part of any parish, township, or place within the county shall be valued, and may appoint one or more person or persons to make such valuation; and the person or persons so appointed may at all reasonable times, and with or without assistants, enter upon, view, examine, survey, and measure all and any lands, houses, or other property within such parish, township, or place liable to be assessed toward the county rate, in order to ascertain the value at which the same ought respectively to be charged.

10.^[1] If any overseers or other persons neglect to make any such return in writing as aforesaid, or wilfully make any false return or statement of the amount of the full and fair annual value of the property within the parish, township, or place liable to be assessed towards the county rate, any Court of Quarter Sessions upon the report of the said committee, may order that the whole of the expences incurred by the said committee in ascertaining the amount of the full and fair annual value of the same shall be charged upon the parish, township, or place, of which the overseers or other persons have been guilty of such neglect or misconduct as aforesaid, in addition to the proportion of the county rate to be paid by such parish, township, or place; and such expences shall be raised, levied, and collected by such and the like ways and means as county rate can or may be raised, levied and collected, and shall be paid therewith, due distinction being made, in the case of every such additional assessment, between the sum or sums charged for any such expences and the sum or sums assessed for the county rate.

11.^[1] In any case where any committee appointed as aforesaid have directed the whole or any part of any parish, township, or place to be valued, and where, in the basis or standard of rate afterwards allowed and confirmed by any Court of Quarter Sessions upon the report of such committee, such parish, township, or place is rated on a sum greater than the sum set forth in the returns made to such committee by the overseers of the poor, constable, or other person required to make such return in any place not maintaining its own poor, if there be no appeal made and prosecuted with success against the basis or standard for the rate on such parish, township, or place at the quarter session holden next after such confirmation or allowance of such basis or standard, the justices of the peace at such session shall order the overseers, constable, or other person as aforesaid of such parish, township, or place to pay the amount of the

Committee may cause new valuations to be made.

If parish officers, &c. neglect to make returns, or make false returns, expences of valuations to be paid by parishes.

Costs of valuations directed by committee.

[¹ See note 2 on p. 1097.]

expences incurred in making such valuation; and in any such case as aforesaid, if there be an appeal to the justices of the peace at any quarter session against such basis or standard, on the ground that such parish, township, or place is rated on a sum beyond the fair annual value of the property therein, and if on such appeal such basis or standard is confirmed as to such parish, township, or place, or if it be not reduced to or below the sums set forth in the returns made to such committee as aforesaid, the justices of the peace at such session shall order the overseers, constable, or other person as aforesaid of such parish, township, or place to pay the amount of the expences incurred in making the valuation under the direction of the committee; and such expences shall be raised, levied, and collected by such and the like ways and means as county rate can or may be raised, levied, and collected, and shall be paid therewith, due distinction being made, in the case of every such additional assessment between the sums charged for or on account of any such expences and the sum or sums assessed as and for the county rate.

Payment of
allowances and
expences.

12.^[1] The said committee from time to time may make such allowances and compensations to their clerk, and to the overseers, constables, collectors, surveyors, and other persons employed in the execution of this Act, as to them shall appear reasonable and proper, which, together with the costs of printing and other expences necessarily incurred by the said committee in or about the preparing or amending any such basis or standard for county rates, shall be paid, by an order of the Court of Quarter Sessions out of the county stock.

Procedure
where basis
prepared by
committee
differs from
last preceding
basis.

13.^[1] When and so soon as the committee appointed as aforesaid have prepared any such basis or standard of county rate in which the total amount of the annual value of the property in any parish or place within the county is estimated at a greater or less amount than in the last-preceding basis or standard, they shall cause such last-prepared basis or standard to be printed in such form as they may think proper, and shall forthwith cause to be sent, by the general post or otherwise, one copy of the same to every acting justice of the peace for the county, and to the overseers of the poor, constables, or other persons charged with the collection or levy of the county rate in every parish and place within such county; and such overseers of the poor, constables, or other persons shall, within twenty-one days after the receipt of such copy, call a vestry or other meeting of such parish or place, and shall submit the said copy to such meeting; and any person rated to the relief of the poor, or liable to contribute to the county rate, in such parish or place, may at all reasonable times inspect and examine the said copy whilst the same remains in the custody of any such overseer, constable, or other person,

[¹ See note 2 on p. 1097.]

and take extracts or copies therefrom, without the payment of any fee for the same.

14.^[1] Together with the copy of such proposed basis or standard there shall also be sent by the said committee to the overseers of the poor or constable of every such parish or place, or other person as aforesaid, a notification of a reasonable time, not less than one calendar month after the date of such notice, within which any objections to the proposed basis or standard may be forwarded to the said committee by such overseers or constable or other person as aforesaid, or by any person affected by such basis or standard; and the said committee shall fix and give due notice of a time and place when and where such objections will be taken into consideration by the said committee, and for hearing the parties making such objections.

Time within which objections may be made to proposed basis.

15.^[1] When any proposed basis or standard for a county rate has been finally corrected and approved of by the said committee, they shall lay the same before the Court of Quarter Sessions holden next thereafter; and such court shall thereupon order public notice to be given, in one or more of the newspapers usually circulated within the county, that such basis or standard will be taken into consideration at the then next quarter sessions to be held for the said county; and at such last-mentioned quarter sessions the court shall proceed to take the same into consideration, and to alter and amend the same as to them may seem proper, and, if they think fit, to allow and confirm the said basis or standard, or, instead of making any alteration in the said basis or standard or of allowing and confirming the same, to refer back the said basis or standard for amendment to the said committee, and to adjourn the consideration thereof to some future quarter session; and in such last-mentioned case the said committee shall have the same powers and authorities for requiring returns and ascertaining the value of property liable to be assessed toward the county rate, in order to the revising or amending of the said basis or standard so referred, as are herein-before given to them for preparing the same; and all the clauses and provisions herein-before contained for preparing any basis or standard shall be applicable in every respect to the revision or amendment of the same; and any amendment or alteration by the said committee of such basis or standard so referred shall be reported and taken into consideration at the quarter session; but before any such alteration or amendment made by the said committee of the said basis or standard so referred be allowed or confirmed by the Court of Quarter Session, the said committee shall send at least fourteen days previous notice thereof, by post or otherwise, to every parish and place with respect to which such alteration or amendment is made.

Consideration, &c. of basis by Quarter Sessions.

[¹ See note 2 on p. 1097.]

Basis to be
valid after
confirmation
by Quarter
Sessions.

16.^[1] When the Court of Quarter Session have so allowed and confirmed any basis or standard for a county rate, the same shall be taken to be made and established, and shall be valid, legal, and effectual, to all intents and purposes, notwithstanding any irregularity may have arisen in the making thereof, and notwithstanding the officers of any parish or place may have omitted to make the returns herein-before mentioned, subject nevertheless at all times to appeals against the same, as herein-after provided; and the said court shall cause copies of the said basis or standard, after allowance and confirmation, to be printed, and shall direct one of such copies to be sent to every acting justice of the peace for the county, and one copy to the overseers of the poor, constable, or other person charged with the collection and levy of the county rate in every parish and place within the said county; and such basis or standard, so confirmed, shall be deemed and taken to be the basis or standard and the proportion in which all assessments of the county rate shall henceforth be made, subject to such alterations as may be necessary in consequence of any appeal, or the recommendation of the county rate committee, as herein-after enacted: Provided always, that any basis or standard now in force or hereafter to be allowed and confirmed shall continue to be in force and to be acted upon, subject to any alteration to be made by reason of any appeal or otherwise, as in this Act provided for such alteration, until a new basis or standard for a county rate shall have been made and established under this Act.

Appeal against
basis.

17.^[1] If at any time after the said basis or standard has been allowed, confirmed, and made as aforesaid, any overseer or overseers of the poor, or other person charged with the collection and levy of county rate in any parish or place, or inhabitant or inhabitants thereof, have reason to think that such parish, township, or place is aggrieved by any such basis or standard, whether it be on account of some one or more of such parishes, townships, or places being without sufficient cause omitted altogether from the said basis or standard, or on account of such parish, township, or place being rated on a sum beyond the full and fair annual value of the property therein liable to be assessed toward the county rate, or on account of some other parish or parishes, township or townships, place, or places, being rated on a sum less than the full and fair annual value of the property therein liable to be assessed toward the county rate, such overseer or overseers of the poor, constable, or other person, or inhabitant or inhabitants, may appeal to the justices of the peace for the county at any quarter sessions to be holden after the sessions at which such basis or standard was allowed and confirmed, against such part only of the said basis or standard as may affect the parish or parishes, township or townships, place or places which appear to be over-rated

[¹ See note 2 on p. 1097.]

or under-rated, or omitted altogether from the said basis or standard as aforesaid (subject to the provisions herein-after contained); and if in any case where any overseer or overseers, constable, or other person as aforesaid, of one parish or place appeals against the basis or standard of rate on any other parish or place, on account of the same being altogether omitted from such basis or standard, or on account of the same being rated at less than the full and fair annual value thereof as aforesaid, such overseer or overseers, constable, or other person shall give twenty-one days notice in writing previous to the first day of the said session at which such appeal shall be made, of the intention to appeal, and of the cause and matter thereof, to the overseers of the poor, or where there are no such overseers to the person charged with the collection and levy of county rate in such other parish or place, and if in any case where any such overseer or overseers, constable, or other person appeal against the said basis or standard on the ground that any parish, township, or place is rated on a sum beyond the full and fair annual value of the rateable property therein, such overseer or overseers, constable, or other person shall give twenty one days notice thereof in writing, with the cause and matter thereof, to the clerk of the peace of the county, the said justices shall be empowered to hear and determine such appeal in manner by this Act directed, and either to confirm such parts of the basis or standard as have been appealed against, or to correct such inequalities or omissions as shall be proved to exist therein in such manner as to them and the said justices may appear fair, just and equitable; but no such basis or standard shall upon any appeal be quashed or destroyed, in regard to any other parish, township, or place, unless in cases where the justices of the peace in quarter sessions assembled, or the major part of them, deem it necessary to proceed to the making of an entire new basis or standard, and where they proceed therein according to the provisions of this Act.

18.^[1] It shall be lawful for the Court of Quarter Session upon any such appeal, instead of hearing the said appeal, to adjourn the same, and to order, upon the application of the appellant or respondent in such appeal, a survey and valuation of any of the parishes, townships, or places, or any parts thereof, in respect of or relating to which any such appeal shall be made, and to fix the next or some subsequent session for receiving such survey and valuation, and for hearing and determining the said appeal; and such court shall also thereupon appoint a proper person or persons to make such survey and valuation; and the person or persons so appointed shall for that purpose have full power, with or without assistants, to enter upon, view, and examine, survey, measure, and value all and any lands, houses, and property liable to be assessed toward the county rate within the parishes, town-

Court may adjourn the appeal and order a new survey and valuation to be made, &c.

[¹ See note 2 on p. 1097.]

ships, and places mentioned in such order; and such survey and valuation shall be reported to the quarter session, or adjournment, fixed as aforesaid for receiving the same; and the court then and there assembled shall hear and determine the said appeal in the manner herein-before set forth.

Costs of survey
to be costs in
appeal.

19.^[1] The charges and expences of and attending any survey and valuation ordered to be made by any Court of Quarter Sessions in such appeal as aforesaid shall be deemed costs in such appeal, and abide the event thereof; and the court before which any such appeal is heard and determined may order the costs in and about such appeal to be paid by either party, appellant or respondent, as they in their discretion may think fit; but where any appeal is made on the ground that any parish, township, or place is rated on a sum beyond the full and fair annual value of the property therein, if the court before which such appeal is heard determine in favour of the appellants, such court shall ascertain the costs and charges incurred by such appellants in and about such appeal, and shall order the treasurer of the county rates to pay the same to such appellants out of the public stock of the county in his hands.

Payment of
costs of appeal.

Committee
may revise
basis or
standard from
time to time.

20.^[1] Although no appeal shall be made as aforesaid, it shall be competent to any committee appointed as herein-before provided, and upon being so required by the Court of Quarter Sessions, from time to time to revise any such basis or standard for a county rate being then in force in any county, for the purpose of meeting any partial changes that may have occurred in the rateable value of portions of the property liable to be assessed, and to call for information, and to exercise all the powers herein-before authorized; and if, after due inquiry and investigation, it shall seem fit to such committee to alter such basis or standard, they shall forthwith give notice in writing of such alteration to any parish or place whose basis or standard they propose to alter, whether by diminishing or increasing it, and shall, upon some day to be named in such notice, hear and decide upon any objection that may be made by any person on behalf of such parish or place; and upon the decision of such committee as aforesaid to alter such basis or standard, they shall report such alteration to the next or some subsequent quarter sessions, having given to each parish or place, whose basis or standard is altered by such report, notice thereof in writing not less than ten days previous to such sessions; and the justices assembled thereat, after hearing the objections, if any, that may be made by any person duly authorized to represent any such parish or place, may make such order as to them shall appear just for ascertaining and deciding upon such proposed alteration; and any order so made shall be binding upon all parties concerned.

Justices in
general or
quarter ses-
sions to make

21. It shall be lawful for the justices of the peace of the several counties, or divisions of counties in England and Wales,

[¹ See note 2 on p. 1097.]

assembled at their quarter sessions, and they are hereby authorized and empowered, whenever circumstances shall appear to require it, to order and direct a fair and equal county rate to be made, for all the purposes to which the county stock or rate is now or shall hereafter be made liable by law, according to the basis or standard for the time being in force in such county or division of a county; and for that purpose to assess and tax every parish, township, and other place, whether parochial or extra-parochial, within the respective limits of their commissions, or within such divisions, rateably and equally, according to a certain pound rate (to be from time to time fixed and publicly declared by such justices), upon the basis or standard hereinbefore mentioned, of the full and fair annual value of the property, messuages, lands, tenements, and hereditaments rateable to the relief of the poor therein, or which in any place not maintaining its poor would be liable to be rated for the relief of the poor if the said last-mentioned place were a parish, any law or statute to the contrary thereof notwithstanding; and the justices of the peace shall, in all cases where the same may be necessary, appoint proper persons within such extra-parochial or other places for the assessing, taxing, and rating such extra-parochial property, messuages, lands, tenements, and hereditaments, and levying, collecting, and paying over such assessment taxes, or rates.

a fair and equal county rate, whenever circumstances appear to require it.

Appointment of persons to make assessments, &c. in extra-parochial places.

22. If the churchwarden or churchwardens, overseer or overseers of the poor, or other inhabitant or inhabitants of any parish, township, or place, whether parochial or otherwise, where there is no churchwarden or overseer, or person appointed to act as such, shall at any time thereafter have reason to think that such parish, township, or place is aggrieved by any rate or assessment now existing, or hereafter to be made upon the basis or standard hereinbefore mentioned, either in pursuance of this Act or of any Act or Acts now in force, whether it be on account of the proportions assessed upon the respective parishes, townships, or places being unequal, or on account of some one or more of them being without sufficient cause omitted altogether from the rate, or on account of such parish, township, or place being rated at a higher proportion of the pound sterling according to the fair annual value of the rateable property therein, or on account of some other parish or parishes, township or townships, place or places being rated at a lower proportion of the pound sterling according to the fair annual value of the rateable property therein than has been fixed and declared by the justices of the peace of the said county in sessions assembled as the basis of the rate of the said county, or on account of the altered state of the value of the property assessed, or any part thereof, or shall have any other just cause of complaint whatsoever, it shall be lawful for such churchwarden or churchwardens, overseer or overseers of the poor, or other inhabitant or inhabitants where there is no churchwarden or overseer, or person appointed to act

Parishes aggrieved may appeal.

Notice of
appeal.

Hearing of
appeal.

Payment of
rate pending
appeal.

Where Quarter
Sessions lower
rate, excess to
be returned out
of general
county rate.

as such, to appeal to the justices of the peace for the county at the next quarter sessions after such cause of appeal shall have arisen, against such part of the rate only as may affect the parish or parishes, township or townships, place or places which are unequally rated, or which shall appear to be over-rated or under-rated, or omitted altogether from the rate: Provided always, that fourteen clear days notice in writing previous to the first day of such last-mentioned quarter sessions shall be given by the parties intending to appeal to the parties against whose rate the appeal is to be made, also to the clerk of the peace of the county, and the hundred constable, of the grounds of such appeal and the intention to try such appeal at such quarter sessions; and the said justices are hereby empowered to hear and finally determine the same, and either to confirm such parts of the rate as have been appealed against, or to correct such inequalities, disproportions, or omissions as shall be proved to exist therein, as well in respect of the basis or standard as in the assessment of the rate made thereon, in such manner as to them the said justices shall appear fair, just, and equitable, anything in this Act, or any former Act or Acts, or any law, usage, or custom, to the contrary thereof notwithstanding: Provided nevertheless, that upon such appeal no such rate shall be quashed or destroyed in regard to any other parish, township, or place, unless in cases where the justices of any county in quarter sessions assembled, or the major part of them, shall deem it necessary to proceed to the making of an entire new rate, and shall proceed therein, according to the provisions of this Act.

23. The county rate or rates made upon any parish, township, or place (whether extra-parochial or otherwise) shall be paid, and shall and may be levied, recovered, and received, notwithstanding any appeal or appeals may have been made to the quarter sessions against any such rate or rates; and such rate or rates shall continue to be raised, levied, and received until the decision of the justices shall be made upon such appeal or appeals: Provided always, that if upon the hearing of any such appeal or appeals the Court of Quarter Sessions shall order any rate or assessment to be set aside, decreased, or lowered, and it shall appear to the said court that any parish, township, or place have or hath, previously to the determination of such appeal or appeals, paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order such proportion of such sum or sums of money as shall have been so paid by any person or persons, parish, township, or place, subsequently to the notice which shall have been given of such last-mentioned appeal or appeals, to be repaid and returned to the person or persons, parish, township, or place which have or hath paid the same respectively, out of the general rate of the county in which the cause of appeal shall have arisen.

24. Save as herein-before otherwise provided, in case of any appeals, actions, suits, or proceedings at law respecting anything done in pursuance of this Act, or any other Act or Acts relating to the county rate, the expences of all such appeals, actions, suits, or proceedings at law shall be borne and paid by such respective parishes, townships, places, and persons, or such of them, and in such proportions, as the said justices shall, as they are hereby authorized to do, upon any appeal, in their quarter sessions award and order, or as such courts wherein such actions, suits, or proceedings shall be instituted, shall, as they are hereby authorized to do, adjudge and order.

Expences of
appeals or pro-
ceedings at
law.

25. The justices of the peace in their quarter sessions assembled, upon proof before them there to be made of notice of any appeal having been given as herein-before authorized by any churchwarden or churchwardens, overseer or overseers, or other person or persons (though he or they did not afterwards prosecute such appeal), shall and may at the same sessions award and order to the party to whom such notice shall appear to have been given, such costs and charges as by the said justices in their discretion shall be thought reasonable and just to be paid by the churchwardens, overseers, or any other person by whom such notice shall have been given.

Costs where
appeal not
prosecuted.

26.^[1] When and as often as the justices of the peace have made a county rate, a printed list of the parishes and places assessed to such rate, and the amount of the rateable value upon which each such parish and place shall have been respectively assessed, shall be sent to the overseers of the poor, constables, or other persons charged with the collection or levy of the county rate in every parish and place within the county; and such justices assembled at their quarter sessions shall order precepts in the form shown in the schedule annexed to this Act, or as near thereto as may be, to be issued to the guardians of every union of parishes, of which union any parish is situate within such limits, stating the sum or sums assessed and charged for each such rate on each parish in the union, the whole of which parish is situate within such limits, and to the guardians of every single parish situate within such limits, stating the sum or sums assessed and charged on such parish for each such rate, and requiring the guardians of such union or parish respectively, within such time as may be limited in such precepts, to cause the aggregate of the said several sums so stated to be paid by them, out of the monies held by them on behalf of each such parish, to the treasurer of the county or place for which such justices act, and may cause such precepts to be sent, by post or otherwise, to such guardians; and such precepts shall have force

Justices to
send lists of
parishes as-
sessed to
county rates
to the over-
seers, &c., and
issue precepts
to guardians of
unions for the
payment
thereof.

[¹ The printed lists mentioned in this section are, unless the justices otherwise direct, to be sent only on the occasion when a new basis or standard or an alteration in the existing basis or standard has been allowed and confirmed, 29 & 30 Vict. c. 78. s. 2.

Guardians to
pay such rates.

County trea-
surer to re-
ceive the same.

in every such union, so far as concerns such parishes as are within the limits of the commission of the said justices, notwithstanding that the place of meeting of such guardians may not be situated within such limits, and without being endorsed with the signature of any justice of the peace having ordinary jurisdiction in the place of meeting of the guardians; and such guardians shall raise the monies required by such precepts to be paid in like manner as the money required by such guardians for the relief of the poor, and shall pay such monies at the time limited and in the manner prescribed by such precepts; and if the treasurer of such guardians, or any person on his or their behalf, tender to the treasurer of the county or place for which such justices act the aggregate of the said several sums, or if he so tender the whole sum assessed on any such parish or parishes in respect of any such rate or rates, together with a copy of such precept in which are specified the parish or parishes and the rate or rates in respect of which the same is so tendered, the treasurer of the county shall receive the sum so tendered, notwithstanding that the sums required to be paid on behalf of other of such parishes or of other of such rates be not then tendered, and shall give a receipt for the sum or sums received by him accordingly, but he shall not receive any sum on behalf of any such parish less than the whole of the sum assessed and charged thereon in respect of one such rate; and the receipt of the treasurer of such county or place shall be a good discharge for the payment of the sums specified in any such precept or of any of them.

If the guardians fail to pay such rates, the justices may issue warrants to the overseers of parishes, &c. to pay the same, with an addition.

27. In case guardians do not pay within the time limited in such precept the sum or sums of money therein required to be paid on behalf of any parish, the said justices assembled as aforesaid may cause to be issued and sent, by post or otherwise, to the overseers of the poor of such parish, or to the petty constable or peace officer, or other person or persons empowered in any place to rate and levy the monies assessed as such county rate, warrants to collect and pay to the treasurer of the county or place in which such justices act, within a time to be named and limited in such warrants, the rate or rates charged on such parish or place respectively, together with an addition to such rate or rates in the proportion of one shilling to every ten; and such additional sum shall be applied and disposed of in like manner as the county rate; and such overseers of the poor, petty constables, peace officers, or other persons may reimburse themselves, as well for such additional sums as for the original amount of rate or rates, out of the monies which they are respectively empowered to rate and levy for the purpose of such county rate, but shall not receive or take from the county rate, or any other rate, any allowance or compensation for their trouble or expences incurred in collecting, levying, or paying such county rate.

Proceedings in case the overseers, &c. fail to pay.

28. If any overseer, petty constable, peace officer, or other person as aforesaid refuse, make default or neglect to pay to the

treasurer of the county or place within the time limited as aforesaid, the sum or sums of money specified in the said warrants, and if the clerk of the peace or treasurer of the county or place make complaint thereof, then any justice of the peace of such county or place may by warrant under his hand levy the same by distress and sale of the goods of the offender; and the justices assembled as aforesaid may pay to any clerk, constable, messenger, or other person who may have been employed in making such complaint, or in obtaining, drawing, or executing such warrant, such reasonable compensation out of the county stock as to the said justices may seem fit.

29. In every case where any parish comprised in an union has, on or before the day on which any precept as aforesaid should be obeyed, contributed money sufficient to enable the guardians of the union to pay any sum or sums required by such precept in respect of such parish, as well as to provide for the immediate relief of the poor of such parish, and to satisfy all other obligations of the said guardians in respect of such parish in force on that day, and where, through the default of any other parish or parishes in the same union in contributing money to such guardians, or through the neglect of such guardians to demand sufficient contributions from any other parish or parishes in the same union, the said guardians have applied the money of such first-mentioned parish to the use of such other parish or parishes, and are thereby rendered unable to pay any money so required by such precept on behalf of such first-mentioned parish, and such parish is by reason thereof compelled to pay the additional sum of one shilling in every ten, as herein-before provided, in every such case the guardians of the union shall reimburse such first-mentioned parish such additional sum, and all costs incurred by reason of the premises, out of the monies of such other parish or parishes which may next thereafter come into the hands of such guardians; and in case more than one parish be in default as aforesaid, the said guardians shall charge such additional sum and costs to every such parish, in proportion to the amount of the deficiency of the contribution of each parish respectively on the day on which the said precept should have been obeyed.

Parishes not in arrear with contributions to be reimbursed by those which are in arrear in case of any additional sum and costs being paid.

30. In the case of every parish not comprised within any union, and in which the laws for the relief of the poor are not administered by a board of guardians, and in the case of every parish comprised in a union the guardians of which are not empowered to relieve the poor, and in the case of any parish comprised within a union, or in which the laws for the relief of the poor are administered by a board of guardians, of which parish a part only is situated within the limits of the commission of any justices, for which part no separate rate is levied for the relief of the poor, or where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any division or part of any parish, township, or place situated

Justices may issue warrants to the overseers of parishes, &c. not comprised in unions, &c. or only partly within the jurisdiction of the justices &c.

in and extending into two or more counties, ridings, or divisions, and in the case of every place not maintaining its own poor, but liable to the payment of county rates as aforesaid, the justices assembled as aforesaid may, so soon as any vacancy occurs in the office of high constable, issue their warrant to the overseers, petty constables, peace officers, or other persons empowered by law to rate and levy county rates in such parish, part of a parish, or place, to pay to the county treasurer, or to transmit to him in such manner as the said justices may from time to time direct, within a time limited in such warrant, the county rate as aforesaid charged on them, without the agency or intervention of any high constable; and such justices may cause such warrant to be sent by post or otherwise; and in case the said overseers, petty constable, peace officer, or other person refuse or neglect to pay any such rate within the time limited in such warrant, the same remedy may be had against them as is hereinbefore provided against overseers, petty constables, peace officers, or other persons refusing, making default, or neglecting to pay to the treasurer of the county or place, within the time limited, the rate or rates charged upon any parish in union, and omitted to be paid by the guardians of such union in compliance with the precept issued by the justices as aforesaid.

31. Whereas there are several parishes, townships, hamlets, and places situated in and extending into two or more counties, ridings, or divisions having separate and distinct commissions of the peace, part of such parishes, townships, hamlets, and other places, being situated in one county, riding, or division, and other part or parts thereof in another county or other counties, riding or ridings, division or divisions; and the messuages, lands, tenements, and hereditaments situated in such parishes, townships, hamlets, or other places are rateable to the relief of the poor therein, and to the county rates of the respective counties, ridings, or divisions in which such messuages, lands, tenements, and hereditaments are respectively situated; but the constables, churchwardens, and overseers are appointed for the whole of such parishes, townships, hamlets, or places; and it frequently happens that such constables, churchwardens, and overseers are resident in one division of such parishes, townships, hamlets, or other places, and that there are no constables, churchwardens, or overseers residing in the other division thereof, or within the limits of the jurisdiction of the justices making such county rate or rates; whereby considerable difficulties have in such cases arisen in raising the county rates in such divisions: For remedy whereof, be it enacted, that all and every the powers and provisions, clauses, pains, penalties, and forfeitures, given, granted, provided, made, or imposed by this Act, shall extend, and be deemed, construed, and taken to extend, to all cases and places as aforesaid where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any such division or part of any parish, township, or place situated in and extending

Powers of Act to extend to places extending into two or more counties, &c. where there are no separate churchwardens, &c., or where no separate or

into two or more counties, ridings, or divisions as aforesaid; and that all and every the constables, churchwardens, and overseers of any such parishes, townships, hamlets, or other places as are situated in and extend into two or more counties, ridings, or divisions having separate and distinct commissions of the peace as aforesaid shall be subject to the precepts, warrants, orders, and directions of the several justices of the peace for the respective divisions or parts of such parishes, townships, hamlets, or other places, so far as the same may relate to the making of the returns herein-before required, and the assessing, levying, and collecting of the proportion of the county rate for such respective divisions or parts of such parishes, townships, hamlets, or other places, or otherwise to the execution of this Act within the parts of such parishes, townships, hamlets, or other places as shall be situated within the limits of the jurisdiction of the justices making and issuing such precepts, orders, warrants, and directions, and shall be subject to the same fines, penalties, and forfeitures for neglect and disobedience of the precepts, warrants, orders, and directions of such justices, so far as the same shall relate to the matters aforesaid or any of them, or otherwise to the execution of this Act, as such constables, churchwardens, and overseers, or other officers would by the laws now in force be subject and liable to, if such constables, churchwardens, overseers, or other officers had resided within the limits of the jurisdiction of the justices making and issuing such precepts, warrants, orders, and directions: Provided always, that nothing herein contained shall extend, or be construed, deemed, or taken to extend, to authorize any justice or justices of the peace to act in the cases aforesaid or any of them beyond the limits of the jurisdiction within which he or they shall be generally appointed and authorized to act as such justices.

distinct poor
rate is made.
&c.

Justices not to
act beyond
their jurisdic-
tion.

32. Where any parish or place separately maintaining its own poor shall be divided, so that a part is comprised in a borough not subject to contribute to the county rate, while the part out of the borough is liable to contribute thereto, and any county rate shall be assessable upon the part of the parish or place which is comprised within the county and excluded from the borough, the overseers of such parish or place shall, on receipt of any precept or other lawful demand from the justices of the county, or other due authority in that behalf, demanding the payment of any sum of money as the contribution of the part of such parish or place out of the borough towards any such rate as aforesaid, with all convenient speed assess the sum so required upon the persons liable within such part of the parish or place to pay the poor rate therein, by means of a separate rate, to be made, allowed, and published in like manner as the poor rate, and either by themselves or by the collector of poor rates for the time being appointed for the said parish or place shall collect the same separately or with the poor rate payable by the parties assessed thereto, and for the purposes of assessing and

Collection of
rates in
parishes partly
within
boroughs.

collecting the same shall have all such powers, authorities, privileges, protections, and incidents, as belong to them in the assessing and collection of the poor rate; and all provisions of the law for enforcing the collection of the poor rate, and recovering the costs of the proceedings therein, shall be applicable to the collection of the rate or rates herein last above mentioned and provided for.

Appeal against the rate, and audit of the accounts of the overseers, &c.

33. Any person assessed to any rate made under the authority of the provisions last herein-before contained may appeal against the same, in like manner, and with the like consequences in all respects, and subject to the same provisions and regulations, as in appeals against the poor rate; and every overseer and collector shall account for the money levied, collected, and expended under the authority of this Act to the auditor of the district comprising such parish or place, in like manner as for the poor rate, and, if any balance be found to be in his hands, shall apply the same towards the next county rate required for the like purpose of this Act, or shall pay the same to his successor in office; and in default of his so applying the same while in office, or making payment to his successor within seven days after the balance shall have been found, such auditor shall proceed to recover the same from the person holding the same, in like manner as sums certified by him to be due from persons accounting shall from time to time be recoverable; and he shall be paid his costs and expences, when not recovered from the defendant, by the then overseers of the parish or place, who shall be reimbursed out of the balance of such rate, or, if need be, out of the next rate.

Mode of procuring the funds when a precept is sent to the guardians of the union comprising any divided place.

34. Where a precept shall be issued to the guardians of the union comprising any such parish or place, under the provisions in that respect herein-before contained, and such precept shall contain a sum to be assessed and charged in respect of any such rate as is herein provided for upon a part of such parish or place as aforesaid, the said guardians may require the overseers of such parish or place to pay to their treasurer a sum of money sufficient to enable the said guardians to pay the sum so assessed, with the other sums mentioned in the said precept, to the treasurer of the county or other person lawfully authorized to receive it; and the said overseers shall pay the amount out of any monies in their possession belonging to the parish or place, or to the part of such parish or place respectively, and reimburse themselves, if necessary, by a rate, to be levied, as herein-before described, upon the persons liable thereto, or, if they have no such monies shall forthwith proceed to levy and collect the requisite amount by such rate, and pay the same over to the treasurer of the said guardians: Provided, nevertheless, that if such overseers make default, and do not make the requisite payment within the appointed time, they shall be subject to be proceeded against in like manner as the overseers of a parish

wholly situated within the county are subjected to under the provisions of this Act.

35. Where the amount required in respect of any such county rate from any part of such parish or place as last aforesaid shall, in the judgment of such overseers, be so small as to render the levying and collecting of a separate rate for it inconvenient, the overseers may postpone the reimbursement of themselves for any such advance as aforesaid; and they or their successors may afterwards, on the recurrence of the next precept or other lawful demand, or of that next but one, levy and collect such a rate as aforesaid to raise the whole amount so previously advanced and unsatisfied out of the poor rates of the parish, as well as the amount required by the then precept or demand, and shall apply the sum so collected in reimbursement of the previous payments, and the satisfaction of such precept or demand, and shall apply the balance, if any, towards the discharge of the next precept or demand.

Where the county rate is small, the rate for reimbursement of the overseers may be postponed.

[S. 36, 37 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.) S. 38 *rep.* 45 & 46 *Vict. c.* 50. s. 5.]

39. Whenever precepts or warrants, as provided by this Act, are to be sent by post, the clerk of the peace shall send every such precept or warrant by post as a registered letter, according to the regulations of the Postmaster General in force for the time being in that behalf; and every precept or warrant delivered or tendered as a registered letter at the address of the person to whom it is addressed, whether a receipt be given for the same or not, shall be deemed to have been served on the person to whom the same was so delivered or tendered; and if delivered or tendered to the clerk or other like officer acting for any guardians, shall be deemed to have been served on the whole of such guardians; and if delivered or tendered to any one overseer of a parish, shall be deemed to have been served on the whole of the overseers of such parish.

Delivery of precepts, &c. and evidence thereof.

40.^[1] The justices of the peace of counties, and ridings and divisions and parts of counties, and other places of distinct and separate jurisdiction, in that part of Great Britain called England, assembled at their several and respective general or quarter sessions of the peace, or at any adjournment thereof, shall be and they are hereby authorized and required, in any case in which any question or doubt does or shall exist or shall have arisen, or may in the judgment of the said justices be likely to arise, as concerning any boundary between any counties, ridings, divisions, or parts of any county, or other places of distinct and separate jurisdiction for which they respectively act as such

Quarter sessions to appoint justices to fix and determine boundaries.

[¹ Sections 40-43 are *rep.* 32 & 33 *Vict. c.* 67. s. 77, so far as they relate to the Metropolis as defined by that Act.]

justices, to nominate and appoint two justices of the peace of each such county, riding, division, or parts of any county, or other places of distinct and separate jurisdiction between which the boundary is required to be ascertained, for the purpose of fixing and determining such boundary; and the clerks of the peace, town clerks, and other proper officer of the several and respective general or quarter sessions of the peace at which such justices shall be appointed, shall forthwith give notice to each other and to such justices of such appointment; and the justices so appointed shall in every such case, as soon as may be after their appointment, meet and proceed to ascertain the boundary upon such evidence as can be obtained by them, or as they shall deem necessary for that purpose, either by examination of witnesses upon oath (which oath any one of the said justices is hereby empowered to administer), or of any maps, plans, surveys, or any other records, or documents, or in such other manner as they the said justices so appointed shall think requisite; and it shall be lawful for such justices, or for any person authorized under the hand of any three or more of such justices, to enter upon any lands, grounds, or premises, for the purpose of examining the same, or making any measurement, map or plans thereof, for the purposes aforesaid; and it shall be lawful for the said justices to summon any witnesses to be examined in that behalf, and to impose any penalty or forfeiture not exceeding ten pounds upon any witness who shall, without reasonable excuse, refuse or neglect to attend to be examined upon any such summons; and such justices shall thereupon fix, ascertain, and determine the boundary so referred to them to be ascertained, and shall cause the boundary so fixed and determined to be laid down on two maps or plans, to be signed by the said justices so appointed as aforesaid, which shall be deposited with the clerks of the peace, town clerks, or other proper officer for the counties, ridings, divisions, or parts of counties, or other places of distinct and separate jurisdiction between which such boundary shall be so fixed and determined, and which maps and plans shall be kept amongst the records of their respective sessions, and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties, ridings, divisions, or parts of counties, or other places of distinct and separate jurisdiction, for which the same shall have been so ascertained, for all the purposes of this Act, and the carrying the provisions thereof into execution, anything contained in any other Act or Acts of Parliament relating to such counties, ridings, divisions, or parts of such counties, or other places of distinct and separate jurisdiction, or any law, usage, or custom to the contrary notwithstanding.

Appointment
of new justices
in case of
death, &c.

41.^[1] If any of the four justices so appointed as aforesaid, or who shall be appointed in manner herein-after mentioned, shall,

[¹ See note on p. 1113.]

before the execution of all the powers and authorities hereby in them respectively vested, die, decline, or refuse to act, or become incapable of acting, the justices of the peace of counties, ridings, divisions, and parts of counties, and other places of distinct and separate jurisdiction, assembled at their several and respective general or quarter sessions of the peace or at any adjournment thereof, from which such justice so appointed or to be appointed shall die, decline, refuse to act, or become incapable of acting shall and they are hereby authorized and required to appoint another justice in the room of him so dying, declining, refusing to act, or becoming incapable of acting as aforesaid, and so from time to time as often as any justice so to be appointed as last aforesaid shall die, decline, or refuse to act, or become incapable of acting; and every justice to be appointed as aforesaid shall have the like power and authority as the justice in whose place he shall be appointed was invested with by virtue of this Act; and notice shall be given by the clerks of the peace, town clerks, or other proper officer to such justice of his appointment, in manner herein-before directed.

42.[¹] If it shall happen that the justices so appointed to fix, ascertain, and determine the boundaries as aforesaid shall disagree in opinion touching the boundary between any county, riding, division, or parts of any county, or other place of distinct and separate jurisdiction, so referred to them under and by virtue of this or the said recited Act, and there shall be an equality of votes, so that the said justices cannot make any determination thereon, then and in such case the said justices, or the major part of them, shall forthwith appoint under their hands such person as they may think proper to act as referee, which person so appointed as referee shall, within twenty-one days from the receipt of such appointment, fix a time and place to meet such justices; and at such meeting the said person so to be appointed as referee as aforesaid shall, together with the said justices to whom any boundary shall be referred to be ascertained as aforesaid, proceed to fix, ascertain, and determine the boundary about which such disagreement shall take place amongst them the said justices, in such and the same manner and with such and the like powers in all respects as herein-before expressed; and the determination and decision of the said justices, and of the person whom they shall appoint as referee as aforesaid, or of the major part of them, shall be for ever binding and conclusive; and the said justices, and the person whom they shall appoint as referee as aforesaid, or the major part of them, shall cause the boundary so fixed and determined to be laid down on two maps or plans, to be signed by the said justices and the person so appointed as referee as aforesaid, or by the major part of them, which shall be deposited with the clerks of the peace, town clerks, or other proper officer as herein-before directed, and kept amongst the records of their respective sessions, and shall be received as evidence of such

In case of difference between justices, a referee to be appointed to meet them, and determine boundary.

[¹ See note on p. 1113.]

boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties, ridings, divisions, or parts of counties, or other places of distinct and separate jurisdiction for which the same shall have been so ascertained, for all the purposes of this and of the said recited Act, and the carrying the provisions thereof respectively into execution, anything contained in any other Act or Acts of Parliament relating to such counties, ridings, divisions, or parts of such counties, or other places of distinct and separate jurisdiction, or any law, usage, or custom, to the contrary notwithstanding.

Act not to determine any question of boundary, except for rating purposes.

43.^[1] Nothing in this Act contained, nor any proceedings under the same, shall extend or be construed to extend to determine any question of boundary for any purpose except for the purpose of assessing, collecting, and levying rates according to the provisions of this Act and of the said recited Act.

[S. 44 *virt. rep.* 56 & 57 *Vict. c.* 61. s. 2.]

Penalty on persons obstructing overseers, &c.

45. Every person who in any manner wilfully resists or obstructs any overseer, collector, surveyor, or other person in the execution of his or their duty under this Act shall forfeit and pay any sum not exceeding five pounds, to be prosecuted and recovered before any two or more of her Majesty's justices of the peace for the county wherein the offence is committed.

[S. 46 *rep.* 47 & 48 *Vict. c.* 43. s. 4. Ss. 47-50 *rep.* 55 & 56 *Vict. c.* 19. (S.L.R.)]

Interpretation of terms.
"County."

51. In the construction of this Act the word "county" shall mean and include any riding or division having a separate commission of the peace, or separate county treasurer, and any liberty, franchise, or other place in which rates in the nature of county rates may be levied, having a separate commission of the peace, and not subject to the jurisdiction of the county or counties at large in which such liberty, franchise, or place may lie, nor contributing or paying to the county rates made for such county or counties at large; and the words "county rate" shall mean and include every rate or tax assessed in any county or any division of a county as aforesaid for all or any of the purposes to which county rate or stock is or may hereafter be made liable.

"County rate."

Interpretation of terms.
"Parish."

52. The word "parish" shall be construed to include any township, vill, or place maintaining its own poor, whether parochial or extra-parochial, or any part of a parish, township vill, or other place for which a separate poor rate may be made; the word "union" shall be construed to mean and include any number of parishes united under the Poor Law Amendment Act, 1834 . . . or under any local Act; and the word "guardians" shall mean and include any board of guardians acting under the

"Union."

5 & 6 Will. 4. c. 76.

"Guardians."

[¹ See note on p. 1113.]

provisions of the Poor Law Amendment Act, 1834, and empowered to relieve the poor of any parish or union, and the visitors, guardians, directors, managers, acting guardians, vestrymen, or other officers in a union, appointed to act in the ordering of relief of the poor from the poor rate under any general or local Act of Parliament; and the word "hundred" shall mean "Hundred." and include any hundred, wapentake, ward, or other district in the nature of a hundred, by whatever name denominated.

SCHEDULE to which this Act refers. Sect. 26.

Form of Precept.

County of } To the guardians of the union.
to wit. }

These are to require you, the guardians of the union, from and out of the monies paid into the hands of the treasurer of your union for the uses and purposes of the said union, to pay or cause to be paid, on or before the day of , into the hands of A.B., treasurer of the said county, appointed to receive the same, the sum of , being the amount of the several and respective sums of money hereunder set down and expressed opposite to and against the names of the several parishes, townships, or places comprised within your said union, the said several sums being respectively charged and assessed thereon as the proportion of the several parishes, townships, or places towards the general county rate, at in the pound, made at the last quarter sessions [or general sessions] of the peace held at , in and for the said county.

[Signature of the clerk of the peace.]

Names of Parishes.	County Rate, at in the Pound.
	£ s. d.

CHAPTER LXXXIV.

AN ACT to make better Provision respecting the Supply of
Water to the Metropolis.[¹] [1st July 1852.]

[Preamble.]

1. It shall not be lawful for any company supplying the Metropolis or any part thereof with water for domestic use . . . to take any water for such purpose from any part of the River . . . Restriction as to sources of supply of water to the Metropolis.

[¹ Short title, "The Metropolis Water Act, 1852." See s. 28.]

Thames below Teddington Lock, or from any part of any of the tributary rivers or streams of the River Thames below the highest point where the tide flows in such tributary rivers and streams respectively ; . . .

Reservoirs
within a
limited dis-
tance to be
covered.

2. Every reservoir within a distance in a straight line from Saint Paul's Cathedral in the City of London of not more than five miles, in which water for the supply for domestic use of the Metropolis or any part thereof is stored or kept by any company, shall be roofed in or otherwise covered over: Provided always, that this provision shall not extend to any reservoir the water from which is subjected by the company to efficient filtration after it is discharged from such reservoir and before it is passed into the mains or pipes of the company for distribution, or to any reservoir the whole of the water from which is distributed through distinct mains or pipes for other than domestic purposes, nor to any reservoir whatever the water stored in which shall be used exclusively for other than domestic purposes.

Restriction
of open
aqueducts.

3. No water shall be brought or conducted within the Metropolis by any company for the purpose of domestic use otherwise than through pipes or through covered aqueducts, unless the same shall be afterwards filtered before distribution.

Filtration of
water for
domestic use.

4. Every company shall effectually filter all water supplied by them within the Metropolis for domestic use, before the same shall pass into the pipes for distribution, excepting any water which may be pumped from wells into a covered reservoir or aqueduct, without exposure to the atmosphere, and which shall not be afterwards mixed with unfiltered water.

Company to
give notice to
Board of Trade
before resort-
ing to new
sources of
supply, who
may thereupon
appoint an
inspector to
report.

5. Three months before any company shall resort to any new source of supply, such company shall give notice in writing thereof to the Board of Trade; and thereupon, within one month after receipt of such notice, the Board of Trade shall, if they think fit, appoint a competent person as an inspector, who shall report with respect to any sources then specially authorized by Parliament, whether the directions of the special Act have been complied with in reference thereto, and with respect to any new sources not specially authorized by Parliament, whether the same are capable of supplying good and wholesome water for domestic purposes.

Inspector shall
give notice to
companies of
his appoint-
ment, &c., and
may make
visits, &c.

6. The inspector so appointed as aforesaid shall within ten days after such appointment give notice in writing to the company thereof, and of the time at which he proposes to visit and inspect the said sources; and thereupon, in order to enable him to make such report as aforesaid, it shall be lawful for the said inspector to enter the lands wherein such sources respectively are situate, and to examine and make inquiry touching the premises.

Board of Trade
to certify their
approval or

7. The Board of Trade shall, within twenty-one days after the receipt from the said inspector of his report, send to such

company with respect to any such new sources of supply not specially authorized by Parliament a certificate in writing of their approval or disapproval thereof, and with respect to any such sources as shall then be specially authorized by Parliament a notice in writing stating whether in the judgment of the said Board of Trade the directions of the special Act have in reference thereto been complied with.

disapproval of
sources of
supply, &c.

8. After the company shall have received a certificate that the Board of Trade disapproves of any such new source of supply not specially authorized by Parliament as aforesaid, it shall not be lawful for the company to use the said source; and after receipt of such notice as aforesaid that in the judgment of the Board of Trade the directions of the special Act with reference to any sources then specially authorized by Parliament have not been complied with, it shall not be lawful for the company, before complying with such directions with reference to such source, to use the same.

If Board of
Trade dis-
approve, com-
pany not to
use sources.

9. If at any time complaint as to the quantity or quality of the water supplied by any company for domestic use be made to the Board of Trade by memorial in writing signed by not less than twenty inhabitant householders paying rents for and supplied with water by the company, it shall be lawful for the Board of Trade, at any time within one month after the receipt of such complaint, to appoint a competent person to inquire into and concerning the grounds of such complaint, and to report to the Board of Trade thereon.

On complaint
as to quantity
and quality,
Board of Trade
may appoint
a person to
inquire and
report.

10. The person so appointed as aforesaid shall, within three days after such appointment, give notice thereof in writing to the company; and after such notice as aforesaid he shall have power to inspect and examine the waterworks of the company, and to inquire into and concerning the grounds of such complaint; and the company and their officers shall afford all reasonable facilities for such inspection, examination, and inquiry.

Powers, &c.
of person
appointed.

11. Any person obstructing such inspector in the due prosecution of such inspection, examination, or inquiry, shall forfeit and pay any sum not exceeding ten pounds.

Penalty for
obstructing
such person.

12. If after receipt of such report it shall appear to the Board of Trade that the said complaint is well founded, the Board of Trade shall give notice thereof in writing to the company.

If complaint
appear well
founded, notice
to be given to
company.

13. After the receipt of such notice the company shall and they are hereby required within a reasonable time to remove the grounds of such complaint.

Company to
remove ground
of complaint.

14. Every steam engine, furnace, or other work in which coals which produce smoke during combustion shall be consumed by any company for the purpose of the waterworks, shall be constructed on the most effectual principle for consuming its own smoke.

Engines, &c. to
consume their
own smoke.

Constant supply of water to be provided by every company.

15.^[1] Every company shall, subject to the provisions of the special Act relating to such company, provide and keep, in the district mains already laid down or hereafter to be laid by them, a constant supply of pure and wholesome water sufficient for the domestic use of the inhabitants of all houses supplied by such company, at such pressure as will make the water reach the top story of the highest of such houses, but not exceeding the level prescribed by the special Act of such company; provided that no company shall be bound to provide a constant supply of water to any district main until four fifths of the owners or occupiers of the houses on such main shall by writing under their hands have required such company to provide such supply, nor even upon such requisition, in case it can be shown by any company objecting to the same that more than one fifth of the houses on such main are not supplied with pipes, cocks, cisterns, machinery, and arrangements of all kinds for the reception and distribution of water, constructed according to the regulations prescribed by the special Act or by this Act, or which any company, with the approval of the Board of Trade, may from time to time make in that behalf; and after any such requisition as aforesaid shall have been delivered to the company, it shall be lawful for the surveyor, or any other person acting under the authority of the company, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, to enter into any house or houses on such district main, in order to ascertain whether the pipes, cocks, cisterns, and machinery of such house and houses are so constructed as aforesaid; and provided also, that any company may, with the consent of the Board of Trade, suspend the giving of such constant supply, or give the same in succession to the several districts of such company or to any parts of such districts as may be found to be convenient; and provided that it shall be lawful for the company, after due notice, to abstain from supplying or to cut off the communication pipes and withdraw the supply of water from any house, whereof the pipes, cocks, cisterns, machinery, or arrangements as aforesaid shall not be in conformity with such regulations; provided that neither the Kent Waterworks Company nor the Hampstead Waterworks Company shall be required to give such supply at any height exceeding one hundred and eighty feet above Trinity high-water mark, nor the East London Waterworks Company be required to give such supply at any height exceeding forty feet above the level of the pavement nearest the point at which such supply shall be required.

Penalty for non-compliance with the provisions of this Act.

16. Any company which shall violate, refuse, or neglect to comply with any of the provisions herein-before contained shall forfeit to her Majesty the sum of two hundred pounds, and the

^[1] Section 15, except so much thereof as prescribes the height at which the Kent Water Works Company and the East London Waterworks Company are respectively required to give their supply, is rep. 34 & 35 Vict. c. 113. s. 5, so far as regards its operation within the limits of that Act.]

further sum of one hundred pounds for every month during which they shall continue to violate or to refuse or neglect to comply with the same after they shall have received notice in writing from the Board of Trade to discontinue such violation, refusal, or neglect as aforesaid.

17. Every company shall, within one year after the passing this Act, cause a map to be made of the district within which any mains or district mains shall have been laid down or formed by them on a scale not less than six inches to a mile, and shall cause to be marked thereon the course and situation of all existing mains and district mains, and shall, within six months from the making of any alterations or additions, cause the said maps to be from time to time corrected, and such additions made thereto as may show the line and situation of all such mains and district mains as may be laid down or formed by them from time to time; and such map, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the principal office of each company, and shall be open to the inspection of all persons interested in the same within the said district, who shall be at liberty to take copies of or extracts from the same.

Map of the mains, &c. of each company to be made, and kept at the principal office of the company, and be open to inspection.

18. Every company, on the application of any person supplied with water by such company, shall furnish to such person the particulars of any district main from which such person is supplied, together with the names of the streets through which such district main passes, and the commencement and termination thereof.

Companies to furnish particulars of district mains when required.

19.[¹] And with respect to the yearly receipt and expenditure of every company, the company shall in each year cause an account in abstract to be prepared of the whole receipt and expenditure of all rates or other monies levied under the powers of their Act, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the chairman of the company, and also by the auditors thereof, if any; and a copy of such annual account shall be sent, free of charge, to the town clerk of the City of London, and to the vestry clerk of each parish supplied with water by each company respectively not within the City of London, on or before the thirty-first day of January in each year, under a penalty of twenty pounds for each default; and the copy of such account so sent shall be kept by the said town clerk and vestry clerks respectively, and shall be open to inspection by all persons at all reasonable hours, on payment of one shilling for each inspection.

Accounts of receipt and expenditure of water rates.

20.[¹] Whenever it shall appear to the Board of Trade that any of the provisions of this Act have been violated or have not been complied with on the part of any company, or that any

Proceedings to enforce the provisions of this Act.

[¹ Sections 19-22 are rep. 34 & 35 Vict. c. 113, s. 5, so far as regards their operation within the limits of that Act.]

company has acted or is acting in a manner unauthorized by the provisions of this Act, and it shall also appear to the Board of Trade that it would be for the public advantage that the company should be restrained from so acting, the Board of Trade shall certify the same to her Majesty's Attorney General; and thereupon the said Attorney General shall proceed by information, or by action or other legal proceeding, as the case may require, to recover any penalties which may have been incurred, or otherwise to enforce the due performance of the said provisions; and in case the default of the company shall consist in the commission of some act or acts unauthorized by law, then the said Attorney General, upon receiving such certificate as aforesaid, shall proceed by such legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge shall be authorized and required to grant, if he shall be of opinion that the act or acts of the company complained of is or are not authorized by law,) to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

Notice to company before proceedings; which must be commenced within one year after the offence.

21.[¹] No such certificate as aforesaid shall be given by the Board of Trade until twenty-one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate; and no proceedings shall be commenced under the authority of the Board of Trade except within one year after the offence shall have been committed.

Cisterns to be supplied with proper ball-cocks or other apparatus, &c.
Removal, &c. of overflow spouts, &c.

22.[¹] Whenever water shall be constantly laid on under pressure in any district main, every person supplied with water under pressure by any company through such main shall, when required by the company, provide a proper cistern or other receptacle for the water with which he shall be so supplied, with an efficient ballcock or other like apparatus; and if any cistern or other receptacle supplied with water under pressure shall be provided with or have any overflow spout, waste pipe, or other means or contrivance immediately connected or capable of being used therewith to carry off the water from such cistern or receptacle, such person shall be bound to give notice to the company of every such overflow spout, waste pipe, or other means or contrivance, and of the situation thereof; and, whether such notice shall have been given or not, the surveyor or any other person acting under the authority of the company may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house in order to examine if there be any waste, misuse, or undue consumption of water by means of any overflow spout, waste pipe, or other means or contrivance; and in case any such waste, misuse, or undue consumption of water shall be found to exist, or shall be deemed

[¹ See note on p. 1121.]

likely to occur from the use of any such overflow spout, waste pipe, or other means or contrivance, it shall be lawful for such surveyor or other person to give notice to the person so supplied with water either to repair and amend or to remove such overflow spout, waste pipe, or other means or contrivance; and if the same shall not be forthwith repaired and amended, or removed, in accordance with such notice, it shall be lawful for the company immediately thereafter to turn off the water from the house, and to cease to supply the same with water.

23. Every cistern or other receptacle for water, and every closet, soil pan, and private bath which shall be supplied with water by any company, shall be so constructed and used as effectually to prevent the waste, misuse, or undue consumption of water, and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the company, or into any pipes connected or communicating therewith; and, notwithstanding anything in the Waterworks Clauses Act, 1847, or in this Act contained, no company shall be bound to supply water into any cistern or other receptacle for water, closet, soil pan, or private bath, which shall not be so constructed and used.

Construction of cisterns, closets, &c. so as to prevent waste or return of impure matter.

24. No person shall make or lay down, or permit to be made or laid down, any pipe or other means or contrivance for taking, using, or obtaining water to communicate with any pipe or apparatus connected with any of the mains or pipes of any company without giving such notice, and except under such superintendence, and according to such direction, as is provided by the Waterworks Clauses Act, 1847, with respect to the communication pipes to be laid by the inhabitants.

Restriction on communication with pipes of the company

10 & 11 Vict. c. 17.

25. If any person supplied with water by any company shall wilfully do or cause to be done any act, matter, or thing in contravention of the provisions of this Act, or of the special Act relating to such company, or of any Act incorporated therewith, or shall wilfully omit or neglect to do any matter or thing which under such provisions ought to be done for the prevention of the waste, misuse, or undue consumption, or the contamination of the water of the company, it shall be lawful for the company to turn off the water supplied by them to such person, and to cease to supply such person with water, and also to recover from such person by action or suit in any court of competent jurisdiction the amount of any loss, damage, or injury which such company may sustain by means or in consequence of any such act, matter, or thing as aforesaid, or of any such wilful omission or neglect as aforesaid.

Water may be cut off in certain cases.

26. It shall be lawful for any company from time to time . . . to make such regulations as shall be necessary or expedient for the purpose of preventing the waste or misuse of water, and therein, amongst other things, to prescribe the size, nature, and strength of the pipes, cocks, cisterns, and other apparatus to be

Companies may make regulations.

used, and to interdict any arrangements, and the use of any pipes, cocks, cisterns, or other apparatus, which may tend to such waste or misuse as aforesaid.

Parish officers, with consent of vestry, may require owners or occupiers to procure supply of water.

27.^[1] If it appear to the churchwardens and overseers of the poor of any parish that any house in such parish is without a proper supply of water, and that an annual supply can be furnished thereto by the company at a rate not exceeding threepence per week, conformably with the scale of rates authorized to be charged by such company, after making the allowance of twenty per cent. herein-after mentioned, the said churchwardens and overseers shall, with the consent of the vestry of the said parish, give notice in writing to the owner or occupier of such house, requiring him within a time specified therein to obtain such supply, and do all such works as may be necessary for that purpose; and if such notice be not complied with, the said churchwardens and overseers shall, with the consent aforesaid, do such works, and recover the expences incurred from such owner, in like manner, and with the same remedies for nonpayment, as rates for the maintenance of the poor are by law recoverable in such parish; and the company shall, upon the requisition of the said churchwardens and overseers of the poor, supply with water such house or houses; and the rates for such supply of such house or houses, not exceeding in the whole threepence per week for any one such house, shall be due and payable by the said owner, and shall be recoverable by the company as if such owner had contracted with the company for the supply of such water, and upon such payment the company shall make an allowance of twenty per cent; and for the purposes aforesaid the person for the time being receiving the rackrent of any such house as aforesaid, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such house were let at a rackrent, shall be deemed to be the owner of such house

Short title.

28. In citing this Act in other Acts and in legal instruments it shall be enough to use the expression "The Metropolis Water Act, 1852."

Interpretation of terms.

29. In the construction of this Act the expression "company" shall mean and include any of the companies herein-after enumerated; (that is to say,) the Governor and Company of the New River brought from Chadwell and Amwell to London, commonly called "The New River Company"; the Company of Proprietors of the East London Waterworks; the Southwark and Vauxhall Water Company; the West Middlesex Waterworks Company; the Lambeth Waterworks Company; the Governor and Company of Chelsea Waterworks; the Grand Junction Waterworks Company; the Company of Proprietors

[¹ Section 27 is rep. 34 & 35 Vict. c. 113. s. 5, so far as regards its operation within the limits of that Act.]

of the Kent Waterworks; and the Hampstead Waterworks Company; and also any other company, board, commissioner, association, person, or partnership, corporate or unincorporate, for the time being supplying the Metropolis or any part thereof with water for domestic use; the expression "the special Act" shall mean and include this Act, and every and any Act of Parliament relating to the company referred to; and the expression "the Metropolis" shall mean and include all places described or referred to in the schedule to this Act.

The SCHEDULE above referred to.

Sect. 29.

All such places lying on the north side or left bank of the River Thames as are within the exterior boundaries of and are within the ambit formed by the parishes of Fulham, Hammersmith, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford-le-Bow, Bromley, Poplar, and Shadwell.

Such part of the parish of Chelsea as lies north of the said parish of Kensington.

And such parts and places lying on the south side or right bank of the said river as are within the exterior boundaries of and are within the ambit formed by the parishes of Woolwich, Charlton, Greenwich, Deptford, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting, Wandsworth, and Putney.

CHAPTER LXXXV.

AN ACT to amend the Laws concerning the Burial of the Dead in the Metropolis.^[1] [1st July 1852.]

[*Preamble.*]

[*S. 1 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

2. In case it appear to her Majesty in council, upon the representation of one of her Majesty's Principal Secretaries of State, that for the protection of the public health burials in any part or parts of the Metropolis, or in any burial grounds or places of burial in the Metropolis, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for her Majesty, by and with the advice of her Privy Council, to order that after a time mentioned in the order burials in such part or parts of the Metropolis or in such burial grounds or places of burial shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require; provided that notice of such representation, and of the time when it shall please her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the

Orders in council for discontinuance of burials in Metropolis.

[¹ Short title, "The Burial Act, 1852." See 55 & 56 Vict. c. 10.

Ss. 10-42, 44, 50-52 of this Act are extended to parishes not in the Metropolis, 16 & 17 Vict. c. 134. s. 7; but see terms.]

London Gazette; and shall be affixed on the doors of the churches or chapels of the parishes in which any burial grounds or places of burial affected by such representation shall be situate, or on some other conspicuous places within the part or parts of the Metropolis affected by such representation, one calendar month . . . at the least before such representation is so considered : Provided always, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk of such parish.

Order not to extend to burial grounds of Quakers or Jews, unless expressly included.

3. No such order in council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order ; and nothing in this Act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively ; and no such order in council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.

Burial not to take place after order in council for discontinuance.

4. It shall not be lawful, after the time mentioned in any such order in council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place or elsewhere, within the part or parts of the Metropolis or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this Act or in such order excepted ; and every person who shall after such time as aforesaid, bury any body, or in anywise act or assist in the burial of any body, contrary to this enactment, shall be guilty of a misdemeanor.

Restrictions as to burial in the Metropolis of inhabitants of parishes the burial grounds whereof are closed.

5. After the time from which burials in any place of burial of any parish are required under this Act to be discontinued, the body of any parishioner or inhabitant of such parish shall not be buried in any burial ground within the Metropolis belonging to any other parish within the Metropolis, save where the body of any of the family or relatives of such parishioner or inhabitant has been interred in such burial ground, and the relatives or other persons having the care and direction of the funeral signify a desire that on that account the body of such parishioner or inhabitant should be there interred (such burial ground not being a burial ground in which burials have been ordered to be discontinued under this Act), and save as herein otherwise provided ; and every person having the care or control of any burial ground, who knowingly authorizes or permits any burial therein contrary to this enactment, shall be guilty of a misdemeanor.

Saving of certain rights

6. Provided always, that notwithstanding any such order in council, where by virtue of any faculty legally granted, or by

usage or otherwise, there is at the time of the passing of this Act any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this Act, it shall be lawful for one of her Majesty's Principal Secretaries of State from time to time, on application being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such Secretary of State may think fit; but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who, if this Act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had, if this Act had not been passed.

7. The provisions of this Act shall not extend to authorize the discontinuance of burials, or to prevent the burial of the body of any person in any of the cemeteries mentioned in the schedule (B.) to this Act, or in any burial ground or cemetery to be hereafter provided with the approval of one of her Majesty's Principal Secretaries of State, as herein mentioned.

8. Nothing in this Act contained shall extend to prevent the interment in the cathedral church of Saint Paul's London, or in the collegiate church of Saint Peter's Westminster, of the body of any person, where her Majesty, by any writing under her Royal Sign Manual, shall signify her pleasure that the body be so interred.

9. No new burial ground or cemetery (parochial or non-parochial) shall be provided and used in the Metropolis, or within two miles of any part thereof, without the previous approval of one of her Majesty's Principal Secretaries of State.

10. Upon the requisition in writing of ten or more ratepayers of any parish . . . in which the place or places of burial shall appear to such ratepayers insufficient or dangerous to health (and whether any order in council in relation to any burial ground in such parish has or has not been made), the churchwardens or other persons to whom it belongs to convene meetings of the vestry of such parish shall convene a meeting of the vestry, for the special purpose of determining whether a burial ground shall be provided under this Act for the parish; and public notice of such vestry meeting, and the place and hour of holding the same, and the special purpose thereof, shall be given in the usual manner in which notices of the meetings of the vestry are given, at least seven days before holding such vestry meeting; and if it be resolved by the vestry that a burial

to bury in vaults, &c.

Saving as to cemeteries in schedule (B.) and new burial grounds.

Saving as to St. Paul's Cathedral and Westminster Abbey.

New burial grounds to be approved by Secretary of State.

Provision of new burial ground by vestry.

ground shall be provided under this Act for the parish, a copy of such resolution, extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of her Majesty's Principal Secretaries of State.

In case vestry resolve to provide a burial ground, a burial board shall be appointed.

Resignation of members.

11. In case of such resolution as aforesaid the vestry shall appoint not less than three nor more than nine persons, being ratepayers of the parish, to be the burial board of such parish, of whom one third, or as nearly as may be one third (to be determined among themselves), shall go out of office yearly, at such time as shall be from time to time fixed by the vestry, but shall be eligible for immediate re-appointment: Provided always, that the incumbent of the parish shall be eligible to be appointed and re-appointed from time to time as one of the members of the said board, although not a ratepayer of the parish; provided also, that any member of the board may at any time resign his office, on giving notice in writing to the churchwardens or persons to whom it belongs to convene meetings of the vestry.

[S. 12 rep. 38 & 39 Vict. c. 66. (S.L.R.)]

Meetings of the board.

13. The board shall meet . . . at their office, or some other convenient place previously publicly notified; and the said board may meet at such . . . time as at any previous meeting shall be determined upon; and it shall be at all times competent for any two members of the board, by writing under their hands, to summon, with at least forty-eight hours notice, the board for any special purpose mentioned in such writing, and to meet at such time as shall be appointed therein.

Quorum.

14. At all meetings of the board any number not less than three members of such board shall be a sufficient number for transacting business, and for exercising all the powers of the board.

Board may appoint and remove officers, &c.

15. The board shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for the business of the board and for the purposes of their burial ground, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business.

Minutes of proceedings of board, and accounts.

16. Entries of all proceedings of the board, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board, and shall be signed by the members present or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board having been duly convened or held, or of the presence at any such meeting of the persons named in any such entry as being

present thereat, or of such persons being members of the board, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and the board shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money are paid and such liabilities incurred.

17. All such books shall at all reasonable times be open to the examination of every member of such board, churchwarden, overseer, and ratepayer, without fee or reward; and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the members of such board, or any of them, or any of the officers or servants of such board having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before any justice of the peace, forfeit any sum not exceeding five pounds.

Penalty for refusing to allow inspection of books &c.

18. The vestry shall yearly appoint two persons, not being members of the board, to be auditors of the accounts of the board; and at such time in the month of March in every year as the vestry shall appoint the board shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid; and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.

Audit of accounts.

19. The expences incurred or to be incurred by the burial board of any parish in carrying this Act into execution shall be chargeable upon and paid out of the rates for the relief of the poor of such parish; the expences to be so incurred for or on account of any parish in providing and laying out a burial ground under this Act and building the necessary chapel or chapels thereon not to exceed such sum as the vestry shall authorize to be expended for such purpose; and the overseers or other officers authorized to make and levy rates for the relief of the poor in any parish shall, upon receipt of a certificate under the hands of such number of members of the burial board as are authorized to exercise the powers of the board of the sums required from time to time for defraying any such expences as aforesaid, pay such sums out of the rates for the relief of the poor as the board shall direct.

Expences to be paid out of the poor's rates.

20. Provided always, that it shall be lawful for the board, with the sanction of the vestry and the approval of the Treasury, to borrow any money required for providing and laying out any burial ground under this Act, and building a chapel or chapels thereon, or any of such purposes, and to charge the future poor

Borrowing powers of board.

rates of the parish with the payment of such money and interest thereon; . . .

Advances by
Public Works
Loan Commis-
sioners.
14 & 15 Vict.
c. 23.

21.[1] The commissioners for carrying into execution an Act of the session holden in the fourteenth and fifteenth years of her Majesty, chapter twenty-three, "to authorize for a further period the advance of money out of the Consolidated Fund to a limited amount for carrying on public works and fisheries and employment of the poor," and any Act or Acts amending or continuing the same, may from time to time make to the burial board of any parish for the purposes of this Act any loan under the provisions of the recited Act, or the several Acts therein recited or referred to, upon security of the rates for the relief of the poor of the parish.

Application of
borrowed
moneys.

22. The money raised for defraying such expences, and the income arising from the burial ground provided for the parish, except fees payable to the incumbent, clerk, and sexton of the parish, and the other fees herein directed to be otherwise paid, shall be applied by the board in or towards defraying the expences of such board under this Act; and whenever, after repayment of all monies borrowed for the purposes of this Act in or for any parish and the interest thereof, and after satisfying all the liabilities of the board with reference to the execution of this Act in or for the parish, and providing such a balance as shall be deemed by the board sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the board, they shall pay the same to the overseers, in aid of the rate for the relief of the poor of the parish.

Vestries of
parishes may
concur in pro-
viding a burial
ground for the
common use of
such parishes,
&c.

23. The vestries of any parishes which shall have respectively resolved to provide burial grounds under this Act may concur in providing one burial ground for the common use of such parishes, in such manner, not inconsistent with the provisions of this Act, as they shall mutually agree, and may agree as to the proportions in which the expences of such burial ground shall be borne by such parishes; and the proportion for each of such parishes of such expences shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed upon, the burial boards appointed for such parishes respectively shall, for the purpose of providing and managing such one burial ground, and taking and holding land for the same, act as one joint burial board for all such parishes, and may have a joint office, clerk, and officers; and all the provisions of this Act shall apply to such joint burial board accordingly; and the accounts and vouchers of such board shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such board shall be paid to the overseers of such parishes

respectively in the same proportions as those in which such parishes shall be liable to such expences.

24. For the more easy execution of the purposes of this Act the burial board of every parish appointed under this Act shall be a body corporate, by the name of "The Burial Board for the Parish of _____ in the County of _____," and by that name shall have perpetual succession and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this Act; and where the burial boards of two or more parishes act as and form one joint burial board for all such parishes for the purposes aforesaid, such joint board shall for such purposes only be a body corporate by the name of "The Burial Board for the Parishes of _____ and _____ in the County of _____" and by that name shall have perpetual succession and a common seal, and shall sue and be sued and have power and authority as aforesaid to take, purchase, and hold land for the purposes of this Act.

Incorporation,
&c. of burial
boards.

25. Every burial board shall, with all convenient speed, proceed to provide a burial ground for the parish or parishes for which they are appointed to act, and to make arrangements for facilitating interments therein; and in providing such burial ground the board shall have reference to the convenience of access thereto from the parish or parishes for which the same is provided; and any such burial ground may be provided either within or without the limits of the parish, or all or any of the parishes, for which the same is provided;

Board to pro-
vide a burial
ground, which
may be within
or without the
parish.

26. For the providing such burial ground it shall be lawful for the burial board, with the approval of the vestry or vestries of the parish or respective parishes, to contract for and purchase any lands for the purpose of forming a burial ground, or for making additions to any burial ground to be formed or purchased under this Act, as such board may think fit, or to purchase from any company or persons entitled thereto any cemetery or cemeteries, or part or parts thereof, subject to the rights in vaults and graves, and other subsisting rights, which may have been previously granted therein: Provided always, that it shall be lawful for such board, in lieu of providing any such burial ground, to contract with any such company or persons entitled as aforesaid for the interment in such cemetery or cemeteries, and either in any allotted part of such cemetery or cemeteries or otherwise, and upon such terms as the burial board may think fit, of the bodies of persons who would have had rights of interment in the burial grounds of such parish or respective parishes.

Board may,
with approval
of vestry, pur-
chase land for
forming a
burial ground,
or purchase an
existing ceme-
tery or con-
tract for
interments in
a cemetery.

27. The Lands Clauses Consolidation Act, 1845, except the provisions of that Act "with respect to the purchase and taking of lands otherwise than by agreement," "with respect to the recovery of forfeitures, penalties, and costs," "with respect to

Certain pro-
visions of
8 & 9 Vict.
c. 18. incor-
porated with
this Act.

lands acquired by the promoters of the undertaking under the provisions of the Lands Clauses Consolidation Act, 1845, or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof," and "with respect to the provision to be made for affording access to the special Act by all parties interested," shall be incorporated with this Act; and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean any such burial board.

Power to sell
lands not
wanted.

28. It shall be lawful for any such board, with the approval of the vestry, to sell and dispose of any lands purchased by them under this Act, or any part thereof, in which no interment shall have taken place, and which it may appear to the board may be properly sold or disposed of; and for completing and carrying any such sale into effect such board may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct; and such conveyance shall be under the hands of at least two of the members of the board, and under the seal of the board; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the hands of two of the members of the board shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received; and the money to arise from such sale shall be applied to such of the purposes of this Act as the board shall think fit.

8 & 9 Vict.
c. 18.

Board may,
with approval
of vestry, &c.
appropriate
land belonging
to parish.

29. Provided always, that any burial board under this Act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the Poor Law Board, may from time to time appropriate for the purposes of a burial ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish, or for any specific charity: Provided always, that where any land so taken and appropriated shall be subject to any charitable use, such lands shall be taken on such conditions only as the Court of Chancery in the exercise of its jurisdiction over charitable trusts shall appoint and direct.

Part of ground
may be con-
secrated and
part uncon-
secrated.

30. It shall be lawful for any burial board to lay out and embellish any burial ground provided by such board in such manner as may be fitting and proper, and to build on any land to be purchased or appropriated for a burial ground under this Act, and according to a plan to be approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the United Church of England and Ireland; and such burial ground may be consecrated by the bishop of the diocese, when the same shall appear to him to be in a fit and proper condition, for the purposes of interment according to the

rites of the United Church: Provided always, that in providing any burial ground such board shall set apart a portion thereof which shall not be so consecrated as aforesaid, and may build thereon a suitable chapel or chapels for the performance of funeral service.

31. Any burial board may from time to time enter into any contract with any persons or companies for building any chapel or chapels as aforesaid, and inclosing, laying out, and embellishing any burial ground, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act; which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by such burial board, for the purposes of this Act, unless previous to the making thereof fourteen days notice shall be given in one or more of the public newspapers published in the county or counties in which the parish or respective parishes shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the burial board at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the burial board to contract with the person offering the lowest price.

Board may contract for works to be done.

32.^[1] From and after the consecration as aforesaid of any burial ground provided under this Act (except any portion thereof intended not to be so consecrated), or, where all or any part of such burial ground, by reason of the same having been already consecrated, shall not require to be consecrated, then from and after such time as the bishop of the diocese shall appoint, such burial ground shall be deemed the burial ground of the parish for which the same is provided; and where the same is provided for two or more parishes, such burial ground shall be in law as if such parishes were one parish, and as if such burial ground were the burial ground of such one parish; and every incumbent or minister of the parish or of each of the parishes (as the case may be) for which such burial ground is provided shall, by himself and his curate, or such duly qualified persons as such incumbent or minister may authorize, perform the duties and have the same rights and authorities for the performance of religious service in the burial in such burial ground, or in the consecrated portion thereof of the remains of parishioners

Burial ground to be the burial ground of the parish or parishes for which it is provided.

Duties, rights and fees of incumbent and clerk and sexton therein.

[¹ The provisions of ss. 32, 33 with respect to fees do not apply to parishes within the City of London, 20 & 21 Vict. c. 35. s. 3.]

or inhabitants of the parish of which he is such incumbent or minister, and shall be entitled to receive the same fees in respect of such burials which he has previously enjoyed and received; and the clerk and sexton of such parish or of each of such parishes shall (when necessary) perform and exercise the same duties and functions in respect of the burial of the remains of parishioners or inhabitants of the parish of which he is clerk or sexton in such burial ground or the consecrated portion thereof, and shall be entitled to receive the same fees on such burials, as he has previously performed and exercised and received, as if such burial ground were the burial ground of the respective parish of such incumbent or minister, clerk and sexton respectively; and the parishioners and inhabitants of such parish or of each of such parishes shall have the same rights of sepulture in such burial ground as they respectively would have had in the burial ground or burial grounds in and for their respective parish, subject nevertheless to the provisions herein contained.

Board may
sell exclusive
rights of burial,
and right to
construct vaults
and erect
monuments.

33.[1] Any burial board, under such restrictions and conditions as they think proper, may sell the exclusive right of burial, either in perpetuity or for a limited period, in any part of any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet or monumental inscription in such burial ground; but there shall be payable to the incumbent or minister of the parish out of the fees or payments to be paid in respect of any rights acquired under this enactment in the consecrated part of such burial ground (in lieu of the fees or sums which he would have been entitled to on the grant of the like rights in the burial ground of his parish) such fees or sums as shall be settled and fixed by the vestry with the approval of the bishop of the diocese, or, if no such fees or sums shall have been so settled, then such fees as he would by law or custom have been entitled to on the grant of the like rights in the burial ground of his parish.

Board to fix
payments for
interments in
burial ground
and for vaults
and monu-
ments.

34. Every burial board under this Act shall and may (without prejudice to the fees and payments herein specially provided for) fix and settle and receive such fees and payments in respect of interments in any burial ground provided by such board as they shall think fit, and also the sums to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet, or monumental inscription in such burial

ground; and every burial board, with the consent of the vestry, may from time to time revise and alter such fees, payments, and sums as aforesaid; and a table showing such fees, payments, and sums, and all other fees and payments in respect of interments in such ground, shall be printed and published, and shall be affixed and at all times continued on some conspicuous part of such burial ground.

35.^[1] Where at the time of the discontinuance of interment in any burial ground the fees in respect of burials therein are divided between the incumbent of the parish and the incumbent of any district parish or other ecclesiastical district, each incumbent shall have the same proportion of the fees in the burial ground to be provided under this Act as he was entitled to in respect of interments in the old burial ground.

Division of fees between incumbents of parishes and ecclesiastical districts.

36.^[1] Where fees or any portion of fees payable on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any parish for which a burial ground is provided alone or jointly with any other parish or parishes under this Act, are by law or custom payable to the churchwardens of any parish, or to trustees or other persons, for or towards the payment of any annuity or stipend to the incumbent or minister, or any other parochial purpose, or the discharge of any debt or liability, such fees or portion of fees shall be payable in the burial ground to be provided as aforesaid for such parish under this Act, and shall be received by the burial board and paid to the parties entitled to receive the same; and where fees or payments have been received on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any such parish by any such churchwardens, or by trustees or other persons, for the purpose of discharging any periodical payment or other liability, it shall be lawful for the burial board, upon the request of such churchwardens, trustees, or persons, to pay from time to time, out of the fees and monies received by them on account of such parish, such amount as may be necessary for discharging such periodical payment or liability.

Fees payable to churchwardens and others for parochial purposes.

37.^[1] It shall be lawful for the vestry of any parish from time to time, if they think fit, with the consent of the bishop of the diocese, to revise and vary the fees payable to the incumbent, clerk, and sexton, and other persons and bodies respectively, under the provisions of this Act, or, with such consent as aforesaid, to substitute for the fees payable to such incumbent, clerk, and sexton, and other persons and bodies respectively, a fixed annual sum of such amount as to such vestry may seem just, to be payable by such periodical payments as such vestry may appoint; and in such last-mentioned case the fees which would otherwise be payable under this Act to the incumbent, clerk,

Power to vestry, with consent of bishop, to revise the fees to incumbent, &c., or to substitute a fixed payment.

^[1] Ss. 35-37 do not apply to parishes within the City of London, 20 & 21 Vict. c. 35, s. 3.]

and sexton, and such other persons and bodies respectively, shall be paid to the burial board, and such fixed payments as aforesaid shall be paid by such board.

Management of burial ground to be vested in board.

38. The general management, regulation, and control of the burial grounds provided under this Act shall, subject to the provisions of this Act and the regulations to be made thereunder, be vested in and exercised by the respective burial boards providing the same; provided that any question which shall arise touching the fitness of any monumental inscription placed in any part of the consecrated portions of such grounds shall be determined by the bishop of the diocese.

Arrangements between incumbents where burial ground is provided for the common use of two or more parishes.

39. Where a burial ground is provided under this Act for the common use of two or more parishes, in case any question arise among the incumbents of such parishes as to the performance of the burial service by a chaplain to be paid by means of contributions from such incumbents, or deductions from fees or sums payable to them, or otherwise touching the performance of service in the consecrated part of such ground, the bishop of the diocese shall from time to time confirm any arrangement which a majority, or, in case of equal numbers, one half of the incumbents shall approve; and such arrangement so confirmed shall be binding upon all the parties concerned.

Provisions of 10 & 11 Vict. c. 65. incorporated.

40. The provision of the Cemeteries Clauses Act, 1847, with respect to the protection of the cemetery, shall be incorporated with this Act, and be applicable to any burial ground provided under this Act.

Conveyance of bodies to burial grounds.

41. Any burial board may make such arrangements as they may from time to time think fit for facilitating the conveyance of the bodies of the dead from the parish or the place of death to the burial ground which shall be provided under this Act, or to any other place of burial, subject to the provisions of this Act and the regulations to be made thereunder; and it shall be lawful for any of the aforesaid cemetery companies to undertake any such arrangement, and to carry the same into effect, subject to the provisions and regulations as aforesaid.

Places for reception of bodies until interment.

42. It shall be lawful for any burial board, with the approval of the vestry, and subject to the provisions of this Act and the regulations to be made thereunder, and for the churchwardens and overseers of the poor of any parish . . . for which a burial board shall not have been appointed under this Act, by the direction of the vestry, and subject as aforesaid, to hire, take on lease, or otherwise to provide fit and proper places in which bodies may be received and taken care of previously to interment, and to make arrangements for the reception and care of the bodies to be deposited therein; and for providing such places such burial boards may exercise the powers vested in them under this Act for providing burial grounds; and churchwardens and overseers may exercise all such powers as, under the Poor Relief Act, 1819, or otherwise, the church-

wardens and overseers of any parish not having a workhouse might exercise for providing a workhouse for such parish.

43. The provisions herein-before contained for the appointment of burial boards shall not apply to any parish within the limits of the City of London and the liberties thereof; but it shall be lawful for the mayor, aldermen, and commons of the said city, in common council assembled, if and when they see fit so to do, to authorize and direct the Commissioners of Sewers of the City of London to exercise for the said city and liberties all the powers and authorities vested in burial boards under this Act; and thereupon such commissioners shall have and exercise for and on behalf of the said city and liberties all such powers and authorities as are hereby vested in the burial board for any parish, or which might be exercised by such board with the approval of the vestry; but the expences to be incurred by such commissioners in providing and laying out any burial ground or burial grounds under this Act, and building the necessary chapel or chapels therein, shall not exceed such sum as the said mayor, aldermen, and commons in common council assembled shall authorize to be expended for this purpose; and the money required for defraying the expences incurred under this Act by the said commissioners shall be charged upon and payable out of the consolidated rate authorized to be made by the City of London Sewers Act, 1848, or any monies applicable for defraying the expences by the said Act charged upon or payable out of such rate; and the income of any burial ground provided under this Act by such commissioners, which, if such ground had been provided by a burial board for any parish, would be applicable in aid of the rate for the relief of the poor of such parish, shall be applicable in aid of the said consolidated rate; and the provisions contained in the City of London Sewers Act, 1848, for the purpose (as therein expressed) of enabling the said commissioners to effect the purchases therein authorized shall be applicable for the purpose of enabling the said commissioners to purchase land for the purposes of this Act; and the powers for and auxiliary to the sale and disposal of land given or expressed to be given by the City of London Sewers Act, 1848, and the City of London Sewers Act, 1851, with respect to land purchased by the said commissioners for any of the purposes mentioned in such last-mentioned Act, and deemed by them unnecessary for such purposes, shall be applicable with respect to any land purchased by the said commissioners for the purposes of this Act which may not appear to them to be wanted for such purposes; and all the provisions of the said City of London Sewers Acts applicable to the exercise of the powers vested in the said commissioners shall be applicable to and for the purposes of this Act, as if the powers which under this Act may become vested in such commissioners had been powers vested in them under the said City of London Sewers Act, 1848; provided that it shall be lawful for the said mayor, aldermen,

The Commissioners of Sewers to be burial board for the parishes in the City.

11 & 12 Vict.
cap. clxiii.

11 & 12 Vict.
cap. clxiii.
14 & 15 Vict.
cap. xci.

and commons to appoint any incumbent or incumbents of any parish or parishes within the said city or liberties to act with the said commissioners for the purposes of this Act.

Secretary of State may make regulations as to burial grounds, &c.

44. It shall be lawful for one of Her Majesty's Principal Secretaries of State from time to time to make such regulations in relation to the burial grounds and places for the reception of bodies previously to interment which may be provided under this Act, as to him may seem proper, for the protection of the public health and the maintenance of public decency; and the burial boards and all other persons having the care of such burial grounds and places for the reception of bodies shall conform to and obey such regulations.

Brompton Cemetery vested in Commissioners of Works.

14 & 15 Vict. c. 42.

45. [*Recital as to uncompleted purchase of the Brompton Cemetery by the General Board of Health, under 13 & 14 Vict. c. 52.*] The rights and obligations of the General Board of Health with reference to the purchase of the said cemetery shall upon the passing of this Act become transferred to the Commissioners of Works; and in case the said cemetery shall be conveyed to them by virtue of the transfer hereby made of such rights and liabilities, then immediately upon such cemetery being so conveyed, the said cemetery shall, without any further conveyance, become vested in the said Commissioners of Works in the like corporate capacity in which any lands, tenements, or hereditaments are vested in them under the Act of this last session of Parliament, chapter forty-two, but subject to the rights to graves, vaults, and monuments subject to which such cemetery may have been conveyed to such commissioners or to the General Board of Health, as the case may be, and subject to the powers and for the purposes herein-after mentioned.

[*S. 46 rep. 55 & 56 Vict. c. 19. (S.L.R.) S. 47 rep. 38 & 39 Vict. c. 66. (S.L.R.)*]

Brompton Cemetery may be sold by direction of the Treasury, and in the meantime used for interments.

Application of proceeds of sale.

14 & 15 Vict. c. 89. s. 2.

Fees on pauper burials in cemeteries mentioned in sched. (B.)

48. The said Commissioners of Works shall and may, in case the said Brompton Cemetery be vested in them by or under this Act, sell and dispose of the same or any part thereof, subject to the rights affecting the same, as the Treasury may direct; and in the meantime, until such sale, the Secretary of State may and shall permit the same to be used for the purposes of interment, upon such terms and conditions as he shall think fit; and the residue of the monies arising from the sale and disposal of the said cemetery, or any part thereof, and in respect of the interments therein, after defraying the expences incident to such sale and to the care and management of the cemetery, until the whole thereof shall be sold and disposed of, shall be paid to the Metropolitan Interments Repayments Account mentioned in the said Act of the last session of Parliament, to be carried to the said Consolidated Fund.

49. Where any body is buried in any of the cemeteries mentioned in schedule (B.) to this Act, at the expence of any union or parish, the fee or sum to be paid or payable on the

interment of such body, or otherwise in respect thereof, to the incumbent of the parish or ecclesiastical district from which such body is removed for interment, shall not exceed the sum of one shilling, or, where the incumbent now receives in respect of the like burial in the ground of his parish more than one shilling, shall not exceed the sum so now received, and in no case shall exceed two shillings and sixpence; and no other fee or sum whatsoever shall be payable in respect of such interment, to or for the use of any person as an officer of such parish or district, or for or on behalf of such parish or district, anything in any Act mentioned in the said schedule (B.) or any other Act notwithstanding.

50.^[1] Where under any Local Act fees on interments in any burial ground of any parish . . . are payable to the churchwardens of such parish, or to any trustees or other persons, for the purpose of enabling them to pay an annuity or stipend to the incumbent or minister, the fees which under this Act, or any Act relating to any cemetery company, would on the interment in the cemetery of any company of any body brought from such parish be payable to such incumbent or minister, shall be payable to the said churchwardens, trustees, or persons; and any surplus of such fees which may remain in their hands after payment of such annuity or stipend shall be paid to such incumbent or minister.

Incumbents fees to be payable to churchwardens, &c. where the fees on burials are now paid to them, &c.

51. Where any burial ground in which interment is discontinued under this Act belongs to any parish other than the parish within which the same is locally situate, it shall be lawful for the incumbent and churchwardens of the parish to which such burial ground belongs, with the consent of the vestry or persons possessing the powers of vestry for ecclesiastical purposes of or in such parish, and of the bishop of the diocese, to convey any chapel belonging to such parish, and situate in or attached to such burial ground, and the site thereof, to any persons named by the incumbent and churchwardens of the parish within which the same is situate, with the consent of the vestry or persons possessing the powers of vestry of or in such parish for ecclesiastical purposes, and of the said bishop, and upon such trusts for such last-mentioned parish, and subject to such conditions to be performed on behalf of such parish, and with such provision for the appointment of new trustees, as to the said bishop may seem proper; and such conveyance shall be effectual to pass all the estate and interest vested in any persons in trust or in behalf of the parish to which such chapel and the site thereof belong; and after the execution of such conveyance all obligation on such last-mentioned parish, or any trustees or others on behalf thereof, to repair such chapel, or to pay any stipend to the minister thereof, or otherwise in relation to or in connexion with such chapel, shall cease.

Where closed burial ground is situate in a different parish from that to which it belongs, the chapel attached thereto may be conveyed for the use of such parish.

[¹ S. 50 does not apply to parishes within the City of London, 20 & 21 Vict. c. 35. s. 3.]

Interpretation
of terms.

52. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say, :

“Parish” shall mean every place having separate overseers of the poor, and separately maintaining its own poor :

“Ratepayers” shall mean the persons for the time being assessed to and paying rates for the relief of the poor of the parish :

“Incumbent” and “minister” shall, in respect of any fee made payable to an incumbent or minister under this Act, mean the clergyman who would have been entitled to the fee had the body been buried in the churchyard or burial ground of the parish from which it came, or in the burial ground of the ecclesiastical district in case such district has a burial ground at the passing of this Act; and if any difference shall arise between two or more persons severally claiming to be the incumbent or minister under this provision, such difference shall be determined by the bishop of the diocese :

“Churchwardens” shall mean also chapelwardens, or other persons discharging the duties of churchwardens :

“Overseers” shall mean also any persons authorized and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor :

“Vestry” shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select or other vestry elected under the Vestries Act, 1831, or elected under the provisions of any local Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select or other vestry :

“Clerk” shall mean the clerk appointed pursuant to this Act by any burial board appointed under this Act.

Differences
between in-
cumbents to be
determined by
bishop.

1 & 2 Will. 4.
c. 60.

Definition of
“the Metropo-
lis.”

53. For the purposes of this Act, the expression “the Metropolis” shall be construed to mean and include the cities and liberties of London and Westminster, the borough of Southwark, and the parishes, precincts, townships, and places mentioned in the schedule (A.) to this Act.

Saving of rights
of cemetery
companies.

54. Provided always, that nothing in this Act contained shall extend to take away, diminish, alter, or prejudice any of the rights, powers, or authorities vested in any of the cemetery companies incorporated under the several Acts mentioned in the said schedule (B.) to this Act; but all such rights, powers, and authorities shall be as good, valid, and effectual, as if this Act had not passed.

SCHEDULE (A.)

Sect. 53.

THE City of London and the liberties thereof, the Inner Temple and Middle Temple, and all other places and parts of places contained within the exterior boundaries of the liberties of the City of London.

IN MIDDLESEX.

The City and Liberties of Westminster.	The parish of St. Sepulchre.
The parishes of St. Margaret and St. John the Evangelist.	The parish of St. James Clerkenwell, including both districts of St. James and St. John.
The parish of St. Martin in the Fields.	The parish of St. Mary Islington.
The parish of St. George Hanover Square.	The parish of St. Mary Stoke Newington.
The parish of St. James.	The Charterhouse.
The parish of St. Mary-le-Strand, as well within the liberty of Westminster as within the Duchy liberty.	The parish of St. Mary Whitechapel.
The parish of St. Clement Danes, as well within the liberty of Westminster as within the Duchy liberty.	The parish of Christchurch Spitalfields.
The parish of St. Paul Covent Garden.	The parish of St. Leonard Shoreditch.
The parish of St. Anne Soho.	The liberty of Norton Folgate.
Whitehall Gardens (whether the same be parochial or extra-parochial).	The parish of St. John Hackney.
Whitehall (whether the same be parochial or extra-parochial).	The parish of St. Matthew Bethnal Green.
Richmond Terrace (whether the same be parochial or extra-parochial).	The hamlet of Mile End Old Town.
The close of the Collegiate Church of St. Peter.	The hamlet of Mile End New Town.
The parishes of St. Giles in the Fields and St. George Bloomsbury.	The parish of St. Mary Stratford Bow.
The parishes of St. Andrew Holborn and St. George the Martyr.	The parish of Bromley St. Leonard.
The liberty of Hatton Garden, Saffron Hill, and Ely Rents.	The parish of All Saints Poplar.
The liberty of the Rolls.	The parish of St. Anne Limehouse.
The parish of St. Pancras.	The hamlet of Ratcliffe.
The parish of St. John Hampstead.	The parish of St Paul Shadwell.
The parish of St. Marylebone.	The parish of St. George in the East.
The parish of Paddington.	The parish of St. John Wapping.
The precinct of the Savoy.	The liberty of East Smithfield.
The parish of St. Luke.	The precinct of St. Catherine.
The liberty of Glasshouse Yard.	The liberty of her Majesty's Tower of London, consisting of—
	The liberty of the Old Artillery Ground.
	The parish of Trinity, Minorities.
	The Old Tower precinct.
	The precinct of the Tower within.
	The precinct of Wellclose.
	The parish of Kensington.
	The parish of St. Luke Chelsea.

The parish of Fulham.
 The parish of Hammersmith.
 Lincoln's Inn.
 New Inn.
 Gray's Inn.

Staple Inn.
 The part of Furnival's Inn in the
 county of Middlesex.
 Ely Place.
 The parish of Willesden.

IN KENT.

The parish of St. Paul Deptford.
 The parish of St. Nicholas Dept-
 ford.
 The parish of Greenwich.

The parish of Woolwich.
 The parish of Charlton.
 The parish of Plumstead.

IN SURREY.

The Borough of Southwark.
 The parish of St. George the
 Martyr.
 The parish of St Saviour.
 The parish of St. John Horsley-
 down.
 The parish of St. Olave.
 The parish of St. Thomas.

—————
 The parish of Battersea (except
 the hamlet of Penge).
 The parish of Bermondsey.
 The parish of Camberwell.

The parish of Clapham.
 The parish of Lambeth.
 The parish of Newington.
 The parish of Putney.
 The parish of Rotherhithe.
 The parish of Streatham.
 The parish of Tooting.
 The parish of Wandsworth.
 The parish of Christchurch.
 The Clink liberty.
 The hamlet of Hatcham in the
 parish of Deptford.

Sections. 7, 54.

SCHEDULE (B.)

The several Cemeteries established under the several Acts hereinafter
 mentioned ; viz. —

2 & 3 Will. 4.
 cap. cx.

An Act for establishing a general cemetery for the interment of the
 dead in the neighbourhood of the Metropolis :

6 & 7 Will. 4.
 cap. cxxix.

An Act for establishing a cemetery for the interment of the dead
 southward of the Metropolis, to be called the " South Metropolitan
 cemetery " :

6 & 7 Will. 4.
 cap. cxxxvi.

An Act for establishing cemeteries for the interment of the dead,
 northward, southward, and eastward of the Metropolis, by a company to
 be called " The London Cemetery Company " :

7 Will. 4. &
 1 Vict.
 cap. cxxx.

An Act for establishing a cemetery for the interment of the dead
 westward of the metropolis, by a company to be called " The West of
 " London and Westminster Cemetery Company " : And

4 & 5 Vict.
 cap. lxiii.

An Act to establish a general cemetery for the interment of the dead,
 in the parishes of Saint Dunstan Stepney and Saint Leonard Bromley in
 the county of Middlesex :

The Victoria Park Cemetery in the parish of Saint Matthew Bethnal
 Green in the county of Middlesex : And

The Abney Park Cemetery in the parish of Saint Mary Stoke
 Newington in the county of Middlesex.

CHAPTER LXXXVII.

AN ACT for the Relief of the Suitors of the High Court of
Chancery.^[1] [1st July 1852.]

[*Preamble.*]

[*S. 1 rep. 42 & 43 Vict. c. 78. s. 29. S. 2 rep. 55 & 56 Vict. c. 19. (S.L.R.)*]

3. . . . if any officer of the Court of Chancery or of any of the judges thereof shall, for anything done or pretended to be done relating to his office, situation, or employment, or under colour of doing anything relating to his office, situation, or employment, wilfully take, demand, receive, or accept, or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, any fee, gift, gratuity, or emolument, or anything of value, other than his salary and what is allowed or directed to be taken by him under this Act or any order to be made under this Act, the person so offending, when duly convicted, shall forfeit and pay the sum of five hundred pounds, and shall be removed from any office, situation, or employment he may hold in the said Court, and shall be rendered and he is hereby rendered incapable for ever thereafter of holding any office, situation, or employment in the said Court, or otherwise serving her Majesty.

Punishment of
officers taking
fees or gra-
tuities.

4. Any such offender may be prosecuted either by information at the suit of her Majesty's Attorney-General, or by criminal information before her Majesty's Court of Queen's Bench, or by indictment.

How offenders
to be prose-
cuted.

[*S. 5 rep. 44 & 45 Vict. c. 59. s. 3. Ss. 6-14 rep. 35 & 36 Vict. c. 44. s. 26.*]

15. All the jurisdiction, and all the powers and authorities of a judicial nature given . . . by any Acts or Act of Parliament now in force, to the Lord Chancellor intrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, shall belong to and may be exercised by all or any of the persons or person for the time being intrusted as aforesaid.

Exercise of
jurisdiction of
Lord Chan-
cellor with
respect to
lunatics.

16. [*Recital.*] There shall be issued and paid and payable out of and charged and chargeable upon the Consolidated Fund of the United Kingdom, after paying or reserving sufficient to pay all such sums of money as by any Acts of Parliament now in force have been directed to be paid thereout, but with precedence to all other payments which shall hereafter be charged thereupon, the annual salaries herein after mentioned; that is to say, to the Lord Chancellor such yearly sum as, with the salary or sum payable to him as Speaker of the House of Lords, . . . shall

Salary of
Lord Chan-
cellor.

[¹ Short title, "The Court of Chancery Act. 1852." See 55 & 56 Vict. c. 10.]

be sufficient to make up the net yearly sum of ten thousand pounds; . . . all which salaries . . . shall be payable and paid . . . free and clear from all taxes and deductions whatsoever

[Ss. 17-20 *rep.* 35 & 36 *Vict. c.* 44, s. 26.]

Treasury may make regulations as to the broker of the Court.

21. It shall be lawful for the Treasury to make such regulations with respect to the broker to be employed in transacting the business relating to the funds of the Court of Chancery, and the amount of commission to be received by such broker, or the payment of such broker by salary or otherwise, as they shall from time to time think fit.

[Ss. 22-41 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*)]

Persons may sell by auction, under order of Court, without auctioneer's licence.

42. [*Recital of* 8 & 9 *Vict. c.* 15. s. 4.] It shall be lawful for any Master in Ordinary of the Court of Chancery, and for the chief clerk of any such master, and for every other person appointed in that behalf by any such master, to sell any goods or chattels, lands, tenements, or hereditaments, or any interests therein, under any decree or order of the said court, by auction or by any other mode of sale by competition, without any licence as an auctioneer, and without being liable to the duty imposed by the said last-mentioned Act, or any other Act or Acts now in force.

[Ss. 43-45, 48, 50, 51, 53, 54 *rep.* 35 & 36 *Vict. c.* 44, s. 26. Ss. 46, 47 *rep.* 42 & 43 *Vict. c.* 78 s. 29. S. 49 *rep. in part* 38 & 39 *Vict. c.* 66. (*S.L.R.*) *residue local and personal.* S. 52 *rep.* 55 & 56 *Vict. c.* 19. (*S.L.R.*)]

Interpretation.

55. In the construction of this Act, unless such meaning be repugnant to or inconsistent with the context, the expression "Lord Chancellor" shall mean and include the Lord High Chancellor of Great Britain, and the Lord Keeper or Lords Commissioners of the Great Seal of the United Kingdom for the time being.

APPENDIX.

4 & 5 VICTORIA, A.D. 1841.

(This Act was omitted from Vol. VI. in accordance with the repeal made by 51 & 52 Vict. c. 57. (S.L.R.), but is here printed according to the restricted repeal substituted by 57 & 58 Vict. c. 56. (S.L.R.).

CHAPTER X.

AN ACT for extending to the County of the City of Dublin the Provisions of an Act passed in the Nineteenth and Twentieth Years of His late Majesty King George the Third, in Ireland intituled "An Act to prevent the detestable Practices of " houghing Cattle, burning of Houses, Barns, Haggards, and " Corn, and for other Purposes," so far as relates to burning of Houses. [6th April 1841.]

[Preamble recites Irish Act 19 & 20 Geo. 3. c. 37, and two Acts therein recited of the 7th & 9th Will. 3.]

[1.] The provisions of the said recited Acts shall be and the same are hereby extended to the county of the city of Dublin, as far as relates to the malicious burning of houses, barns, haggards, corn, or other articles or effects. Certain enactments extended to Dublin.

2. Provided always, that the notices directed in the said recited Acts or any of them to be given by every person so damnified be or shall have been, in the county of the said city, given to the churchwardens of the parish in which such damage shall have been done, or any of them, and to the lord mayor of the said city, or to the secretary of the grand jury. Notices of damage.

3. Provided always, that all persons who may have suffered or shall suffer any loss or damage from such malicious burning as in the said Acts or any of them and herein-before mentioned, at any time since the first day of January one thousand eight hundred and forty-one, or after the passing of this Act, shall be entitled to receive satisfaction and amends for such injuries within the county of the said city of Dublin by exhibiting at the next presenting term in the Court of Queen's Bench after the offence committed, or, after the passing of this Act, exhibit such petition for satisfaction as is under the said Act and the Acts therein mentioned required to be exhibited to the judge or judges of assize; and in examining, directing, and acting on Proceeding by petition to Queen's Bench.

such petition the Court of Queen's Bench shall have and exercise the same authority as under the said Acts is given to the judge or judges of assize; and upon any such petition such examination shall be made, and such presentment shall also be made, by the grand jury of the said county of the city of Dublin, and in such manner as by the said Acts or any of them was required to be made upon any petition to be thereunder presented at any assizes; and a traverse of any such presentment may be made, and such traverse may be tried at the same or the next ensuing presenting term, in like manner as any traverse might be made under the said Acts or any of them at the assizes at which any such presentment might be had thereunder, or as such traverse might be tried at the same or the next ensuing assizes: Provided always, that any sum of money so presented for damages (in case the presentment be not discharged upon such traverse as aforesaid) shall be levied and raised off the said county of the city of Dublin as the amount of any other presentment for the said county of the city of Dublin is or may be now levied and raised.

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